





GOVT PUBNS


















Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto

<https://archive.org/details/31761114665987>





Ontario

# Legislature of Ontario

## Debates

### **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

OFFICIAL REPORT — DAILY EDITION  
Third Session of the Twenty-Ninth Legislature

**Monday, April 30, 1973**

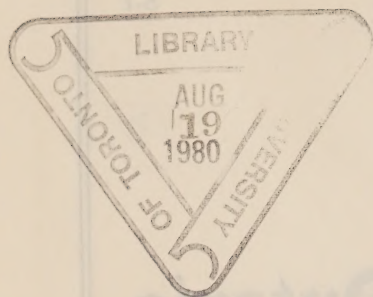
**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

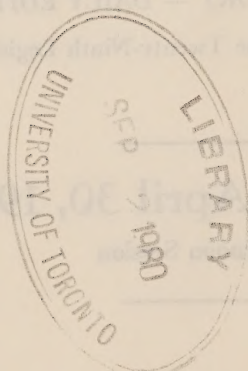
OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973





## CONTENTS

(Daily index of proceedings appears at back of this issue.)





# LEGISLATIVE ASSEMBLY OF ONTARIO

MONDAY, APRIL 30, 1973

The committee met at 3:20 o'clock, p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

**Madam Chairman:** Ladies and gentlemen, could this meeting come to order?

We are here this afternoon to commence examination of the estimates of the Ministry of the Attorney General. Just before we commence I would like to announce the substitutions and the procedures that we will follow.

Our substitutions at the moment are Mr. Handleman for Mr. Jessiman and Mr. Caruthers for Mr. Walker; then I have Mr. Singer for Mr. Braithwaite, Mrs. Campbell for Mr. Worton, and Mr. Lawlor for Mr. Deans.

In terms of procedures, I think we will commence with preliminary statements from the minister and from the two principal critics for the opposition parties and then proceed with examination of the estimates vote by vote.

I will ask speakers to please signify their intention to speak and for each speaker to speak to the particular vote we are considering.

I would also tell you that on Mondays only we will rise at 5 o'clock so that members who are present and who may wish to attend the private members' hour may do so; also, if at any time the bells ring, the Speaker informs me that we must answer the call of the House.

With that simple summary, I will ask the minister to please commence with his preliminary statement, Mr. Minister.

**Hon. D. A. Bales (Attorney General):** Thank you, Madam Chairman. I will make a preliminary statement; it isn't long.

In presenting my estimates last June, I indicated to the members of this committee that we would be revising the structure of the ministry in order to concentrate our efforts on substantial improvements in the court systems, Crown legal services, policy

and programme development and the development of legislation.

I would like to review briefly with you today some of the things we have done over the past year and some of the areas in which we intend to concentrate our efforts over forthcoming years.

My remarks, Madam Chairman, will cover, basically, three areas: Court administration, Crown legal services, policy development and legislation.

As the Speech from the Throne indicated, it is the intention of my ministry to review and deal with the court structure as a single system. It has become increasingly obvious that we must introduce certain modern management methods to court administration without jeopardizing or impairing the fundamental principles upon which that system operates.

To this end, the officials in my ministry have made certain studies which, together with the Law Reform Commission report, will form the basis for that review. That report is being produced in three parts, the first of which I have received. I anticipate that I will receive the second and third parts by June of this year. Because the first part of this report deals only with certain isolated aspects of the system, I propose to await delivery of the whole report before tabling it.

It is my view that this is the only way in which a true perspective of the study can be appreciated, and the basic issues which have divided the commission itself can be considered in their total context. Those issues are so fundamental to the administration of justice that they will provoke public debate, and it's my view that it would be most unfair to the administration of justice to initiate that debate with only a partial and incomplete return from the commission.

There are certain matters, however, which we have dealt with over the past year, and I would like to refer to some of them now.

The status of the case list in the Supreme Court of Ontario has continued to cause concern to many of us involved in the administration of justice. As a result of certain meetings I had with the Chief Justice of the High



Court, a committee of that court was formed under the chairmanship of Mr. Justice Parker; and that committee, by establishing an assignment court and taking certain other steps, has streamlined the handling of cases in the judicial district of York.

I should emphasize that it is only in York that the backlog would appear to be of significance. The introduction of the assignment court, together with changes in the existing rules of practice dealing with the certificate of readiness, have already and will continue to reduce the number of cases on the list awaiting trial.

I recognize that this is only an interim step to solution of the basic problem. I am satisfied, however, that when we have completed our studies of the court system, we will, by modern management methods, be in a position to place the important business of the courts on a more efficient basis.

It has been my long-held view that if the Supreme and county courts of this province, like their counterparts, the provincial courts, were to operate on a year-round basis, they would be able to handle 15 per cent more business annually.

To this end, and in order to take full advantage of the existing court facilities during long vacations, I have requested the Chief Justice of the High Court and the chief judge of the county court to take appropriate steps to make available the court facilities during the months of July and August, 1973. I have requested that the facilities be available to dispose of those cases which are on the non-jury list and in which the parties are prepared to proceed during the summer months.

This, of course, is in addition to the regular sittings of those courts for the disposition of criminal matters, which have been conducted in the summer months for the past few years.

When I first assumed this portfolio, I was concerned about the method by which minor traffic offences were handled in the criminal courts. As a result of overloading of the system trials were delayed; and as a result of the criminal adversary system used in the disposition of these offences, many people were obtaining an unfortunate view of the system of our courts. To those experienced in this system, it was apparent that many persons wished not to contest the actual issue of whether or not the offence was committed but to give an explanation of their conduct.

With this in mind, I requested a committee under the chairmanship of the chief judge of the provincial court, criminal divi-

sion, to look into alternative ways for dealing with minor traffic and parking offences. As a result of their recommendations, we are now in the initial stages of a pilot project in Toronto under which a person charged with a minor traffic offence will have the opportunity to appear before a justice of the peace in an informal administrative atmosphere at a time which meets his convenience for the purposes of entering a plea and offering an explanation.

This project will be operated in conjunction with the driver training programmes run by the Ministry of Transportation and Communications, and it is hoped thereby to remove a significant proportion of minor traffic offences from the provincial courts.

In order to reduce the backlog of cases in the county court, we propose during this session to remove assessment appeals from that court. It is hoped this will relieve the members of that court from the onerous responsibility of disposing of approximately 7,000 assessment appeals during the year.

During the past year, we have also taken the first steps in what we hope to be a continuing process of improving the quality of justice administration. The judges of the provincial court, together with the Crown attorneys, are presently co-operating to provide training to all justices of the peace in Ontario. Furthermore, I propose through the appropriate legislative amendment to establish a justice-of-the-peace review council to hear and investigate complaints concerning the operation of those courts and to make recommendations thereon.

The chief judge of the provincial court, family division, is operating a training programme for the continuing education of the judges of that court—so that they will be abreast of recent developments in the law and procedure. In addition, the chief judge of the family court has inaugurated a programme for the training of the court administrators on a regional basis, to assist them in the discharge of their responsibility.

These are ongoing programmes which I hope over the years will have a significant impact on the quality of the administration of justice in those courts.

Last year, in my estimates, I indicated to you that I would like to develop a system of Crown legal clerks for the prosecution of minor traffic offences. This would remove the police prosecutor from our courts. I am pleased to advise that arrangements are now under way for the appointment of 20 Crown legal clerks, in order that we can inaugurate

this system in Metropolitan Toronto and other large centres across the province. These clerks will work directly under the Crown attorney, and be responsible to him, in the discharge of their duties. I am sure we will all watch with great interest the development of this programme.

In addition to those steps which I have outlined briefly, which I believe will effectively improve the quality of the administration of justice, we fully recognize that our system is far from efficient. From time to time over the past year we have taken steps which I believe will assist in improving the efficiency and I would like to relate some of them to you.

Insofar as court reporting is concerned, we are continuing to expand the use of electronic court reporting equipment, in this province. To date, 86 units, of various types, are in operation in the courts of the province. During the next fiscal year we expect to augment that number by at least 50 units.

Furthermore, the ministry has undertaken a major study, with the assistance of the management services division of the Ministry of Government Services, of evidence-transcription needs and procedures for all courts, boards and commissions in Ontario. We also expect some assistance from the Law Reform Commission report, which will deal with evidence transcription and reporting in the courts.

Recognizing the complexity of the existing court system, and the difficulty in applying modern management methods to it, the ministry has arranged for 10 of its senior officials to attend the professional court management courses at the Institute for Court Management in the United States. This is the only institute of its type in the common law world, and it rose out of a recognition, by such persons as Chief Justice Berger of the United States, of the necessity for applying modern management techniques to courts administration. I am confident that the training, which some of the senior officials in our ministry will obtain at this institute, will be of great benefit over the forthcoming years when we review our system of court management.

Any improvement in the court system, of course, will be dependent upon a sound management information control system, whereby those charged with the responsibility for the system have immediate access to reliable data. In order to achieve this in the ministry we have established three advisory groups; one each for the Supreme, county and provincial courts; these groups are made up of experi-

enced individuals drawn from those courts, who together with the senior officers of the ministry have been meeting regularly and are currently addressing themselves to the problems relating to the standardization of administrative practices in order that a reliable management information control system can be developed. The complete development of such a system will take several years. However, we expect certain early returns of information by the end of this fiscal year.

The hon. members will realize no matter how efficient a system is, its strength is adjudged on the effectiveness of the enforcement of its orders and judgements. In this regard you are well aware of the licence suspension programme which was recently introduced by my ministry, in conjunction with the Ministry of Transportation and Communications.

The automatic enforcement of maintenance order systems has now been introduced in approximately one-third of the family courts of the province. This is a system whereby, through continuous monitoring of maintenance accounts by the courts, the enforcement procedures for collection of arrears is instituted automatically without the necessity of intervention of those dependent upon the orders. There are a multitude of problems attendant upon the successful completion of the programme, but the rules committee of the provincial court, family division, has expended a great deal of effort in attempting to make this programme effective.

Over the past year the Bail Reform Act, which came into operation on Jan. 1, 1972, has been the subject of much controversy. In the early part of this year it was alleged that there had been some resistance to the legislation on the part of the judiciary and the law enforcement agencies in the province. I have had correspondence with the Minister of Justice for Canada, in which I have taken the position and of which I am firmly convinced, that there has been no resistance to the legislation on the part of either the judiciary or the law enforcement agencies of the province.

In Ontario we recognize that unnecessary imprisonment is unjust imprisonment—which violates one of our ancient freedoms, which we all cherish. The provisions of the Bail Reform Act were welcomed by all those concerned with the administration of justice because of their avowed purpose to avoid unnecessary imprisonment. The co-operative approach has existed throughout the total administration of justice in the province, with reference to that legislation. The legislation



itself, however, requires rewording in certain sections.

I have so advised the Minister of Justice for Canada, and his officials have come to Toronto and met with the officials of my ministry, and we have proposed certain amendments to the Act which we believe will resolve many of the problems. Indeed, with the introduction of the Canadian Police Information Centre in Ottawa, and the computer communication with all the police agencies in the province, I expect that some of the difficulties experienced during the first year of operation will not be with us in the future.

I have indicated to Mr. Laing, that with the appropriate amendments to the legislation, the problems we have encountered will be resolved in due course and officials of my ministry, along with members of the judiciary in the province, will make every effort to ensure that the principles of the legislation are realized.

Legal aid, of course, Madam Chairman, is essential to the system of justice under which we live. Recently we have been able to broaden the financial base of the existing programme. The federal-provincial agreement on legal aid, together with the establishment of the Law Foundation under the Law Society Act will provide two additional sources of revenue for the expansion of the programme.

At the present time, the Law Society, which operates the programme on behalf of the government, has encouraged the development, in all law schools of the province, of student legal aid programmes. In addition it has attempted to reduce the cost of divorce proceedings to the programme by a pilot project in the city of Ottawa—whereby duty counsel will appear in those cases which are uncontested. Again, in the city of Hamilton, a project is under way to test the adequacy of a community law office system within the context of the legal aid plan. I expect we will be receiving reports from the Law Society on the success of these various projects, and I will be advising the members of the House with reference to them at that time.

I would like to turn now to the third major area in which we have, in the past year, expended our efforts and on which we will be concentrating in the future—that is, improvements in the Crown legal services. Effective April 2 of this year 88 legal officers and 60 legal secretaries, located in the various ministries of the government, were transferred to my ministry, which is now solely responsible

for the provision of all legal service to the various ministers.

This integration of legal services, within the Ministry of the Attorney General, will not only improve the quality of legal service to the government, but will provide a greater career opportunity for those who wish to practise their profession within the public service. It must not be overlooked that the ministry is not only responsible for legal advice to the government, but is also responsible for the administration of justice in each of the counties throughout this province.

A very integral part of the ministry is the Crown attorney system, in which 140 members of the law society serve the public on a full-time basis. Although this system has served us well for the years, the increasing caseloads of the courts resulting from population increase, the growing recognition of the individual rights and their relation to the criminal law have necessitated a review of the efficacy of that system with a view to its improvement. To this end, the senior officials within my ministry have instituted a thorough review of the entire programme.

I would like now to refer briefly to one other very important development within my ministry in the past year. When one looks at the great volume of statutes, for which we are responsible, and couples that with the overriding responsibility for the administration of justice, both criminal and civil in the province, it becomes apparent that there must be some co-ordinating agency within the ministry to do the research planning, programme evaluation and policy alternative development.

Over the past year we have established a division which is responsible for co-ordinating outside research, instituting research programmes, evaluating our programmes and re-examining our programme direction. In the past year this division has undertaken a review of the Jurors Act and the procedures for the selection of jurors.

I propose, as indicated in the Throne Speech, to introduce into the House an Act which will cover the new method of selection of jurors in the very near future, and the development of a management information control system and a review of existing programmes that is currently being undertaken.

Consideration is being given to the commissioning of a study which will give us, through modern devices of market research, an indication of the expectation of the public at large from the system. For too long now

we have approached the problem from a professional vantage point only. It seems to me that sometimes we forget that the system is designed to serve the public and that we should contact the public in order to find out what they think about it.

I would like to think that over the past year, Madam Chairman, we have taken some new initiatives in our ministry, and these are but a few of them. I welcome the opportunity to discuss these estimates with all members of the House, particularly those on this committee, and to proceed with not only the discussion of the estimates but your assessment of our work, your suggestions for changes and improvements.

**Madam Chairman:** Thank you, Mr. Minister. Mr. Bullbrook, do you care to proceed?

**Mr. J. E. Bullbrook (Sarnia):** Madam Chairman, in the absence of the principal critic of our party, my colleague from Downsview (Mr. Singer), we would like your permission to defer any opening comments until he is either able to be here or, if we get into the specific vote, you might in your normal fashion, give him more latitude. We defer to the critic of the New Democratic Party, the member for Lakeshore.

**Madam Chairman:** Mr. Lawlor, would you like to commence?

**Mr. P. D. Lawlor (Lakeshore):** Thank you, Madam Chairman. It is now two weeks since we began these estimates, and in the interim we have had sufficient time to forget what one intended to say at the beginning, and to revise it half a dozen times.

Firstly, I would like to say that the minister should be thanked and commended for what I consider is a relatively new approach to estimates. I mean these initial statements, which do give a survey of what has been accomplished in the past year, what is programmed for the future, and generally some insight into the workings of his mind and that of his department.

The Attorney General's ship, since the leaving of Arthur Wishart, on the whole has tended to fall into some degree of lethargy, maybe of desuetude. There has been a lull. Maybe that is partially explicable by the several massive waves of reform legislation brought on by that minister in his time, which kept us eminently busy. I think the searching in the depths and the way in which we tackled those matters on all sides of the House, led to legislation that is monumental in this province. I am sure that the minister

intends and wishes to be remembered in the brazen busts of the Legislature, and probably in a statue on the lawn—

**Hon. Mr. Bales:** Not that.

**Mr. Lawlor:**—and as having been a great, if not good, or good if not great, Attorney General for this province. Therefore, the seal of his office, the system of law which is increasingly falling into disrepute for innumerable reasons, must be contended with.

I think he is aware of these currents in contemporary society—the questioning of authority profoundly, which is a double-edged sword. On the one side authority should be questioned, and questioned to the teeth.

On the other side, there must be a modality in which that questioning is carried on—a way of looking at it, not a fundamental acceptance, but I suppose more in terms of personalities, in a sense of not seeking to wreak vengeance on the head of any particular individual in a personal way, but getting on with not just ironing out the folds of the garment, but refurbishing the garment itself. I hope that it is not slowing down.

In two areas which the minister mentioned today, there is that ongoing verve—the business of the whole administrative structure, and secondly the reform of the court structure, both of which are going to come shortly, I trust, into conjunction. It is there that the greatest harm is visited upon individuals.

I would like to say a few words on the business of court reform. A certain amount of talk has been abroad in the land about knocking out grand juries. I don't know what the minister's intentions under this particular head really are. I shall be referring to some extent here this afternoon to a book I picked up while on a select committee trip to Great Britain last fall called "Tangling with the Law" by a man by the name of F. A. R. Bennion in the reform series. As here, the reform series is not very extensive yet. Those who are responsible for it aren't writing books. With all that is being done, it is rather a slow process.

I would ask you to survey that very carefully. I am not going to indicate a disapproval of that particular move. We all remember when the former minister saw fit to wipe the jury system out in several areas of negligence practice, and the hullabaloo was so great with respect to automobile cases and the advocates of society and what not. Despite the enormous prestige of Mr. McRuer, that was never



proceeded with and was withdrawn. Perhaps it should be looked at again.

In any event, in this particular volume they say:

In serious criminal cases the preliminary hearing before magistrates might be thought to avoid the waste of time involved in trying people who would ultimately be acquitted. Very few committal proceedings fail, however, and the hearing can scarcely be said to act as a sieve.

I think it is true about our courts too. In other words, is the preliminary inquiry all that searching? Is it all that determinative of the issues so as to invalidate the functions of a grand jury which, in the way it is handled on occasion, in camera and without the presence of the accused or his counsel, nevertheless can come up with a no-bill. It can give it an extra level of review as an added protection to the accused in society after a commitment has taken place. It is certainly something to consider.

I had noted in my notes the business of law clerks and I am not clearly in accord with that particular item. It will expedite the work of you people and will generate considerable skill over a period of time, I would trust. The business of bringing people who aren't formally trained lawyers into the judicial system, to work perhaps more sympathetically with individuals at the level of minor offences, seems to me an altogether beneficial concept and ought to be begun.

And also there is the work of the justices of the peace. They must be screened. One of the most devastating chapters in McRuer is the condition of the office of the justices of the peace, the vast numbers who are—I was going to say qualified, I meant the opposite—who have got their credentials, let's say, and who are either still on the rolls and who are dead or missing. Some of them had taken off for Brazil or New Mexico, I don't know whether with the funds or not. But in any event they were not available.

The roles that they played, the degree of their training, their competence, used to be a foil with which to reward the lesser lights within the local constituency organization. Somebody was a campaign manager and was out at the heels, so you made him a justice of the peace. Now that the upgrading process is envisaged and going on, that is all to the good.

One of the central defects of our system, and it would be worthy of considerable debate if we all had the time, is the very concept of the adversary system itself and what

is involved in that particular system. It is basically, and I suspect this brings the way in which English law is conducted into a measure of disrepute—that most of them seem some kind of a game.

In other words, the ultimate seriousness of legal proceedings, the real intent of getting at the facts, of extracting the truth, which is the whole purpose of the exercise, is called very much into question by the present insistence upon the adversary system.

It's not as bad as in Great Britain where the judge considers himself, or is considered by the House of Lords and courts of appeal as being a totally neutral entity. And that particular tradition is carried forward in the United States of America.

In our tradition we have diverged a bit—and, I think, wholly to the good—where a judge, by and large, feels he is competent and that it is his function to intervene in the course of a trial. Many lawyers find this aggravating. And if the judge overdoes it, of course, it is aggravating, it destroys the line of questioning; it upsets the tactics or plan of the trial. But to the extent that the tactics of a trial are precisely a legerdemain performed by the actors involved, as much to obfuscate and hide the truth as it is to make revelations of it, the intervention of the judge pricks the bubble of that self-content and is a beneficial thing.

I would like just to point out to you under this head the remarks in this particular volume about it.

More thoroughgoing reforms are needed, however, if the adversary system is a cause of delay, even injustice, and requires modification. And treating litigation as a sort of game in which all depends upon the efficiency of the performer will not do.

The judge needs to play a more active part; to be not simply an umpire, but a participant pursuing justice. He should also strive to end the litigation at the earliest possible moment.

For this, change is needed in the conduct of a hearing. Instead of requiring the entire case for the plaintiff to be presented before the defendant can open his mouth, there should be a preliminary stage at which first the plaintiff and then the defendant would outline his case, indicating the evidence to be called. This would enable both sides and the judge to form an early view of the likely outcome.

The judge might then adjourn briefly and perhaps in his private room invite both



sides to come together and settle their differences in a just compromise.

With such active encouragement from the judge, settlements would be much more common. The waste of time involved in calling all the plaintiff's witnesses before the defence could judge the strength of his case would often be avoided.

And there is a considerable wait now. Some judges have in the past been known to carry this to an excess too. Without getting formal presentation of argument or the counsel's position placed before the court, some judges walk into the court, immediately adjourn it and invite everybody into their chambers, at which time, using somewhat intimidating methods they say: "Now listen, if you don't come to a head, I'll tell you the costs are going to be very restrictive in this particular proceeding. I want you all to go back out into the hall—I'll adjourn the court for a few hours—and settle your differences. Now, I'm warning you, if you come back and still want to go on for trial you're all going to be in very grave trouble." This is not unknown in our courts although it's not true of the Supreme Court judges, but down in the lower echelons.

That's not what I have in mind, obviously. It is a fair presentation in public, in the open forum, of a case. But to have to go through strings of witnesses before the other party really begins, it seems to me that the rules for the conduct of trials unnecessarily prolong those trials.

The chief point he makes in this volume is what he calls the orality of the English court system. That, to some extent is the same in Canadian courts—that everything from beginning to end must be done orally. He thinks that that is terribly time consuming and completely unnecessary—so much so that the functioning of justice is a major cause of delay.

The British are far worse, as I understand it. In their courtrooms a counsel or peer must read the pleadings. Everything must be oral. It's presumed that the judge does not know the contents thereof prior to the opening of the trial.

Now, we all know our judges peruse the pleadings in advance, take briefcases home at night. That expedites the process and that is very valuable.

In English courts anything like an affidavit has to be read before it has validity in the court. It just simply can't be written down

and perused at leisure. All legal judgements and statutory enactments have to be read.

These things are not applicable in our particular context. Nevertheless, I think you will agree with me that these could be a very great extension in the use of written documents and the legitimate recognition of all kinds of documents and certificates.

Something was done in that way under Arthur Wishart some years ago with respect to the rules of evidence and with respect to certification of documents, particularly governmental, that were to be taken at their face value unless questioned before the court.

Some moves were made in that direction, but a great deal more can be done to cut down the rhetorical flourishes and the style of advocates before the courts. And it goes this far, you know, that many individuals will not litigate any more because of the excessive costs and excessive time consumed by them.

Trade unions and a vast number of other individuals in commercial life have turned to private contracts whereby arbitrations are set up. Arbitrators very often work in the complete absence of witnesses and they work by documentary evidence alone. They seem to come to speedy and just decisions. This is a replacement of the whole system.

The business of administrative tribunals—or whatever animadversions some reactionaries may have about them, grew up partially under the very insistence of that particular situation—the courts were clogged with the oracular—and it was far easier to conduct these proceedings.

This is apart from the asinine rules of evidence, with the exclusionary rules we have to contend with, which these tribunals insist on.

It is really my opinion, though, that pretty well anything relevant ought to be introduced into a court and left to the wisdom of a judge as to how he assesses and weighs it.

The innumerable rules that have grown up over the centuries act as much to defeat justice and prevent the clear enunciation of the facts of a case, as they do as safeguards against the traducing of the courts.

That's what happens in institutionalized forms and rules—they turn in upon themselves over periods of time and bring about the exact opposite result like the Statute of Frauds; it bred frauds, as you know.

The same thing has taken place under the exclusionary rules we have presently to operate under.

Under this particular head I would like to bring to your attention—I mentioned it last year, I will again—a marvellous piece of writing by Lord Devlin. He is, you know, a froward judge, a man of imaginatively dissecting of the law; a man deeply concerned about the social impact of law; a man non-pareil in his rights, who's regarded, I suppose, as maybe the chiefest among the justices in the English-speaking world at this time.

Can we then conclude comfortably that in England there is very little justice? I'm afraid not. Very little injustice? I'm afraid not. Where injustice is to be found is not so much in the cases that come to court, but in those that are never brought there.

The main field of injustice is not litigation, but non-litigation. And the prime cause of non-litigation is twofold:

1. The incompleteness and obscurity of the law which prevents, or deters, action.
2. The appalling cost.

The two together have turned litigation, which ought to be a gentle solvent of disputes, into a thing of horror.

That is pretty strong language coming from a justice of the English courts, and I think the words should be very much taken under advisement. How often do we lawyers sit back and tell people in consumer cases, "Yes, you have been badly damaged, you are out of pocket, you have lost \$350, but I can't advise you to go to court because it is going to cost you infinitely more in time and aggravation and nervous tension, and in actual filthy lucre than it would ever reward you in terms of having gone through that experience."

What do people think of a system that prates itself, plumes and prides itself upon access to courts, to the common law, to being open to everyone, that demands rights, that has modes of redress, when you say the sheer practicalities of the matter are so overwhelming that there is no sense attempting it? That is pervasive of the system at the present time and while legal aid has mitigated it, it has by no means eliminated it—I say by no means, because of the large number of people who are not eligible for legal aid, and more all the time, it seems, if you look at the recent Legal Aid Report, who have not yet availed themselves of that particular process: the middle income people who come to see us.

It is commonplace, and every lawyer knows it, to tell them not to go to law, not to go to

court; that the worst thing that could possibly happen to you is litigation. That is not only because of the inherent difficulties and the inability to foresee the results of litigation, because no one would be such a fool, in any case however pellucid or however clear the law may seem to be, as to say that they are likely to win it. I think you can say that they are likely to win it, but you can't say that they are going to win it, that is for sure. The reversals that take place are quite startling and place hesitation upon all our heads.

One of the causes of delay in the courts—and I thought I would have a moment of comic relief—is the business of adjournments. Now you said a few moments ago in your opening statement that Mr. Justice Parker and the others have brought new strictures and rules to bear with respect to the certificate of readiness. That is fine, that is all to the point. But I understand, too, and I have many complaints from lawyers, that that is being enforced rather severely.

Maybe you are going to argue that it would have to be; I don't think so. Some of them are called up on very short notice. They are called up one day ahead of time and told they must appear, their case will be going on, and the court will brook no excuses. Or even on a 48-hour notice—this has been happening in the past months—in order to clear those court lists they are put under the gun.

One lawyer was telling me the other day that he arrived severely embarrassed—he couldn't get his witnesses rounded-up prior to that time; one of them was out of town, etc., but he was treated very badly. As a matter of fact his case was dismissed because he was not prepared to go on at that particular time and they said that this is an iron rule.

Now iron rules in this particular context ought not to be permitted to work. It is not the lawyer who is going to be mulcted, it is the individual who is going to suffer—he has waited two years already, for trial and suddenly the axe falls and somebody thinks he is going to sweep the system clean overnight and then brings in these arbitrary commandments. Let them do it with suavity. There are innumerable situations in which, with perfect justification, a lawyer cannot, despite the fact that he has filed his certificate of readiness, be ready to go on for trial at that particular time. And to what extent you influence the minds of judges then I would ask you to realize, in this particular regard, that



a wise flexibility would be in order in these cases, and that people would not be put out and put down to the extent that they are.

But then he does come and ask for an adjournment. There is a little volume called "Forensic Fables" and it goes like this:

A junior counsel accustomed to practising in the common law courts found himself briefed in a chancery action and since he could not understand what the case was about, he was comforted to be told that he was to have an experienced chancery leader to assist him.

The fable continues:

When the case was called on, the common law junior was told, by a breathless clerk, that the experienced chancery leader was in the House of Lords and that he was to carry on until the experienced chancery leader could get back.

The common law junior rose to his feet and told the judge in faltering accents that he would read the affidavits. At first all went well. The common law junior read and the judge followed him attentively. When the common law junior turned over, the judge turned over also.

But then a hideous event occurred. Toward the end of the third affidavit the judge suddenly said to the common law junior, "But how do you get over in re Puffington settlement?" The common law junior fainted, and when he came to himself he was aware that three old gentlemen with beards were asking for costs out of his estate. The moral: Ask for an adjournment.

Those are the circumstances on which they should occur.

While I think of it too—in the general area of your zeal, could you have the Law Reform Commission, or some people in your department, look further in and perhaps get some weight and in this way you will really become a Lord Haldane type of thing, you know.

In the area of consolidations of the law, while the Law Reform Commission does, in the course of its work, do a certain amount of legal consolidation by simply saying that, say, the Sale of Goods Act must be reformed in a certain direction, there are vast reaches of our property and family law and others that are following the American restatement in torts and following all these old precedents that you and I were subject to at law school, and which have been abroad for a quarter of a century now, it seems to me that this juris-

diction has not done much with respect to the codification—I should be saying codification of law—in Ontario out of the general mass of the common law.

Here and there, yes, but we are more interested in forging ahead on the whole, I think, into new areas of new law, such as privacy legislation, or retail reporting legislation, or fields of environmental law, than we are with respect to placing in explicit, and somewhat continental form—that is the European continent—our law which is becoming so totally complex that when we are asked questions we are practically driven out of our minds trying to answer the simplest of them.

If we had this codex of law it would certainly aid, subject to interpretation, but in the common law, if you have had much to do with court cases at all, you know that if you look hard enough, and long enough, you are going to find a case of equal status with the guy who is against you, in your favour.

You may have to go back several centuries; you may have to spend time in the most esoteric sources of the law, but I warrant you that you are going to be able to come up with a case that would do you a great deal of good. That is kind of silly, you know, and in a way it is great for lawyers because with this idea in mind you go into the law library and you disinter the ghost, but it doesn't make the ghost breathe at all, and there ought not to be half a dozen skeletons in closets to be brought out into the courtroom by the two contending factions, or if there happen to be more, by each one of them in turn.

I say all of an equal weight—it wouldn't be an inferior court, you might even find one from a superior court which overrides your opponent although it is three centuries ago. So that some work in the area of codification very well might take place.

Well, I am going to tell you that some day—much to your chagrin I trust, and in the area of law that warms the cockles of my heart, in the very remote area; not all this concrete down-to-earth stuff that we deal with, although that is good stuff, and one enjoys doing it, but the area of jurisprudence, philosophy of law—I am warning the minister at this stage that I think next year, before I end my life in this Legislature or something like that—

**Hon. Mr. Bales:** Are you going to commit suicide in the chamber?

**Mr. Lawlor:** —I will spend an hour with you going over what I think is important and



what I think is valuable for the human heart and human mind. It is way up there, but it is valuable and the reason I am mentioning this at this particular moment is that I was perusing the other day an article by the leading jurisprudential man in the English-speaking world today—H. A. L. Hart, of Oxford. He has done more and better searching than has been done in centuries over the law. But he's not particularly concerned with the day-to-day matters—rather with the meaning of laws, what's it all about, where does it come from, what are the sources, what it's supposed to do. He has devised an elaborate theory along these lines which too few lawyers have ever heard about.

In any event he did swoop on a low wing on one occasion here and the article I'm looking at is "Bentham and the Demystification of the Law." I won't worry you about the more mystagogic portions of this article—as to what Hobbes contended the law was as opposed to Bentham. But as I say he comes on a low wing to talk about something that is rather interesting. He says:

Consider first Bentham's condemnation as an instrument of delusion of the fancy dress of authority, or as he calls it disparagingly, its factitious lustre and splendor, its apparatus of pomp, pageantry and ceremony, wigs and gowns and antique formal modes of address.

Of course there are old arguments for traditional rituals as often there are that a society needs ceremonials to bind it together and that their emphasis on a nation's past is among the unifying forces of society in giving it not only colour but also solidity.

Of course it may well be that our traditional legal forms have hitherto maintained respect for the law, or at least instilled fear, perhaps healthy fear. But surely in the light of changed general attitude, not only to ceremonies and forms but to authority of all kinds, we should reconsider the question whether our legal rituals help us now or obstruct us.

Do not our inherited forms, instead of inspiring irrational or undeserved respect as Bentham chiefly feared, make the law appear anachronistic, out of touch because out of date, or as one critic has illuminatingly put it, do they not make the law appear like some contemporary remnant of an earlier society, dominated by an upper class, marked off from the rest by a special style of dress and diction? Would not dropping these forms, dimming the lustre and

the splendor, do something to lessen the risk of dissociation between law and the rest of the community, which is surely among the great dangers of our time? Would it not be better to let a judge and lawyer appear, as Bentham wished, merely as life-sized contemporary figures so that on entering the law court the plain man would no longer feel that he was entering a strange world of half intimidating and half comic historical pantomime?

We do not, when we go to a doctor, find ourselves confronted with someone in the guise of a 17th century apothecary, complete with ruff and doublet and sword, and if we did we might feel even more uncomfortable than we do after swallowing our medicine. At a time when authority of all kinds is under the most irrational forms of attack, why make authority more difficult to accept by dressing it up as a ghost from the past?

While it doesn't have the same application as the wigs and gowns, we still have these gowns, we still have these raised daises, we still have this whole panoply of circumstance surrounding the courtroom. Gosh, Elmer Sopha on occasion used to be quite brilliant in laughing against that particular thing. But it seems to have had no impact or effect.

I want you to think about these emoluments of the court, these excrescences. Really they are not necessary. They are supposed to give some pompous ass a modicum of dignity that he would not otherwise enjoy on the basis of his straight intelligence and his straight handling of human problems and his penetration of the human condition, so he hides behind his robes. You know you can't do that. You come down here and sit on the same level as the rest of us and we discuss the law and the conditions in today's society.

I know you have the utmost resistance in the judiciary. This is one of the reasons they take the job, I suspect—some of them at least. I can quote you a number of rather vicious remarks that have been made in the course of this book on reform, touching that particular fact about how certain judges use this as their mode of instilling fear and reverence into the lesser gentry, including young lawyers.

Those are some of the matters I'm concerned with. I want to mention a series of smaller matters that perhaps you can comment on. I think you agree with me that the attack on the bail law is overwhelmingly unjustified. But you said something about the

attack not coming from the law enforcers or not coming from the judiciary. My feeling is that while it may not come overtly, there is a good deal of truth in the last few months where magistrates, former magistrates, and provincial court judges have a leerness, almost a refusal to apply that law sensibly. They make unnecessary difficulties and pretend there are difficulties that don't exist with respect to the law.

I think that the police chiefs and others made a similar number of statements on this business of being soft on criminals—this nonsense that they have to contend with these days. This was a part of it and the focal point around Christmas time.

The one thing that really should be done—and it is not really your jurisdiction I suspect—concerns the speedy availability of information to the police as to whether an individual on the street can be let go or not. But that's a problem in communications, and a problem for the Solicitor General (Mr. Yaremko).

As to the workings of the system, I have been in court several times, and watched it work and I find that certainly the judges I've seen have been very particular and careful about making the necessary inquiries as to the background, the family condition, the employment condition, the past history of the accused, and have granted it with intelligence, which it ought to be. It is the way of bringing citizens into some kind of equality before the law.

I wonder if your ministry considers it within its competence to standardize these various tariffs that you see in every county of Ontario, where each county law association devises its own tariff. I suggest to you that there ought to be fair measure of uniformity of tariffs. I know in Peel, which is a stone's throw from York, my home as a matter of fact, that in some items they get considerably more for litigation and for commercial transactions than you get in York.

Why this diversity? The same kind of context, the same geographical area, and everything is pretty much the same. How can some study be given through your department to the regularity of the tariffs? You can work in conjunction with, and leave a measure of independence to, the various county associations.

People phone me up on occasion and say, "Why do I pay this much to this lawyer when I paid a year ago a certain sum to a lawyer in another place?" I say, "Well, that must be the local tariff that makes the difference." After all it's a terribly self-serving

thing. It's just the opposite, in terms of professional ethics and professional etiquette, of what McRuer demanded for all professional associations. They are not there to serve themselves, and their mandate or monopolies and whatnot were not given for them to feed their own self-interest. It seems to me that it is time that this should be taken into account.

Could you give me an indication of how you are progressing in the area of drunkenness and use of the courts? I was in court again last week and there were cases of drunkenness brought before the court. I thought that by and large these things had been eliminated, that there was a separate lockup and that these cases were being excluded. If they are not, then let's get some other kind of tribunal. They clog up the time, and they bring into demeanment the operation. They have to be handled first, the courtroom is all crowded with people waiting for their cases to come on, and they are parading these drunken fellows, who are mostly derelict. They have been so badly treated by this capitalist society that they drink themselves to death. Sometimes I'm inclined to do so too.

The next matters that I wish to mention are the backlogs in the Supreme Court of Ontario and your being under fire. You emerge here with a smiling picture—that's a rather fine portrait, Mr. Minister.

**Hon. Mr. Bales:** It is terrible.

**Mr. Lawlor:** Oh no, you look benign and above the fray, but apparently you are very much engrossed in it. A widely respected trial counsel of 25 years experience on the civil side of the Supreme Court called it "an absolute and utter bloody chaos."

**Hon. Mr. Bales:** That was before the—

**Mr. Lawlor:** You just sloughed that off today rather gently as you went through your inaugural remarks. I would like to hear an additional remark or so.

**Hon. Mr. Bales:** I've got some really up-to-date statistics for you. Particularly on the Supreme Court and other courts.

**Mr. Lawlor:** Oh, well good. I understand that this condition doesn't exist in the county of York so badly—at least on the civil side of cases, I would say, at the county court level. I understand though that there is some backlog arising out of appeals on the criminal summary conviction cases and whatnot.



How are you handling that? What has been done about that particular hangup?

One of the reasons for that apparently is that you have removed some kind of cost limitation—\$50 had to be paid or the figure had to be over \$50 until a year ago. Since that time anybody who wishes to prolong a traffic ticket or a summary conviction offence indefinitely into the future simply appeals. He knows then, like immigration cases, he can wait to know whether he has been exculpated for ever.

Those are some of the remarks that should be brought to your attention, I think, at this time.

Madam Chairman: Thank you, Mr. Lawlor.

Mr. Bullbrook: In the absence of my colleague from Downsview, if you will permit me I will just say a few words.

Madam Chairman: Thank you, Mr. Bullbrook.

Mr. Bullbrook: I want to join with the member for Lakeshore in congratulating the Attorney General in connection with some of his opening remarks.

As to the fulfilment of a wish of the opposition with respect to the utilization of the courts for 12 months of the year, the announcement in this connection will be well received by the public and will be of great benefit to the public. It was archaic and I'll mention afterwards, along with Jeremy Bentham, something about the archaic aspects of the courts; but it was archaic to see these facilities not in use during the summer months.

I'm vitally concerned also in this respect—and I ask the Attorney General to clarify for me and my colleagues—whether it's the intention also that the criminal responsibility of the Supreme Court will continue during the summer months. It certainly has been something that is unattractive to see people, notwithstanding the more liberal aspects of bail, languishing in jail during the summer months. You might want to make mention in this respect—were your opening remarks related only to civil cases?

Hon. Mr. Bales: No. We have dealt with this before, Madam Chairman. The Chief Justice has assured us that he will carry on those courts as necessary to deal with all of the criminal cases.

Mr. Bullbrook: And this just doesn't obtain in the county of York but will obtain throughout the province?

Hon. Mr. Bales: That's right. The criminal cases are really the ones dealt with first and we went into this a year ago to be sure that they were dealt with.

Mr. Bullbrook: Well, have I missed something? Was there an implementation of this policy during the last long vacation?

Hon. Mr. Bales: No. We had discussions with the Chief Justice on it—and I don't want to interrupt your remarks.

Mr. Bullbrook: No. I want you to, because my remarks aren't in the nature of a monologue. They are more in the nature of a seeking out of information in a very elastic fashion.

Hon. Mr. Bales: Yes. Our first concern was that the criminal matters were dealt with, so that the people were not left in jail. Then we were concerned about the civil—particularly the non-curtilus, because that is where there is a great backlog.

Mr. Bullbrook: Am I correct then, the—

Hon. Mr. Bales: The Chief Justice indicated that by the end of the year they hoped that it would be substantially improved.

Mr. Bullbrook: By the end of the year 1972?

Hon. Mr. Bales: Yes, 1972. To a degree it was, but not nearly sufficiently as a lot of new cases came on and so on. The assignment court was established last October to deal with the matter and it has been dealing with it since then.

Mr. Bullbrook: Are you referring to the end of the 1973, Mr. Attorney General?

Hon. Mr. Bales: No. He indicated to me a year ago that he hoped by the end of 1972 we would see substantial improvement. We may have seen some improvement, but not sufficient that we were satisfied.

Mr. Bullbrook: Help me in this respect. I don't recall either the county or the Supreme Court of Ontario sitting in Sarnia last June or July to take care of matters of people incarcerated.

Hon. Mr. Bales: So far as we were aware, there was no one left in jail awaiting trial on criminal matters.

Madam Chairman: Mr. Bullbrook, your colleague's timing is almost perfect, but out about five minutes.



**Mr. Bullbrook:** It might be that you would prefer to listen to me than to him.

**Madam Chairman:** So if you—

**Mr. Bullbrook:** I know I've always found that I'm much easier to listen to than he is.

**Mr. V. M. Singer (Downsview):** Much prettier too!

**Mr. Bullbrook:** It goes without saying.

**Madam Chairman:** Mr. Singer, we have had the preliminary statement from the minister—

**Mr. Bullbrook:** I am sorry. I appreciate your wanting to transfer the responsibility and I don't resist that, I'm just wondering if I understand.

**Madam Chairman:** I thought you were just killing time, frankly.

**Mr. Bullbrook:** No, I wasn't really.

**Madam Chairman:** You weren't? All right.

**Mr. Bullbrook:** You know, if Jeremy Bentham can take issue with the archaic aspects of our court in his contemporary society, I'm sure that I can hearken back on several occasions—so can the Attorney General—to my taking issue with them, but I had intended to spend some time on that. I'll close by asking this question and then come back during the specific vote.

Am I correct in assuming therefore, that in no place in the Province of Ontario in the future will anyone languish in jail during the summer months purely because of the reason that the court isn't available to him?

**Hon. Mr. Bales:** It is my hope. But there are three things. First of all, in August the Court of Appeal sat to deal with criminal appeals. The Supreme Court: We were assured that there would be no one left in jail at the end of the June sittings who wanted trial. The county court general sessions were held in July to deal with this matter, and it was particularly frank, in York.

**Mr. Bullbrook:** I will now yield to my colleague.

**Madam Chairman:** Mr. Singer, would you like to make your statement? We have had a statement from the minister and a statement from Mr. Lawlor and Mr. Bullbrook was sort of just filling in until your arrival with some questions.

**Mr. Bullbrook:** You keep saying that. Madam Chairman, I object.

**Madam Chairman:** He as much as said that at the commencement of his remarks.

**Mr. Singer:** Well, Madam Chairman, I apologize for not being here earlier. I was testing out the new facilities at Osgoode Hall.

**Madam Chairman:** Good for you.

**Mr. Singer:** I've sort of been asking, I wonder how much you spent in there? It's a wonderful building. You have mixed up all the directions; it's pretty difficult to find out how you get around there.

I hear that a few of the judges are very unhappy about the way some of the equipment functions. In fact the lights went out on the Chief Justice of the trial division the other day and he was very unhappy with whoever was to blame. I'm sure it wasn't your fault.

**Hon. Mr. Bales:** You know, sometimes when there are a lot of changes it takes a little while to adjust to all of them.

**Mr. Singer:** The heat was too hot and the lights wouldn't work. Doors don't open—

**Hon. Mr. Bales:** I remember when I practised law and we moved into a new building with air conditioning, it took about four or five months to get those things adjusted.

**Mr. Singer:** How much did you spend there on refurbishing?

**Hon. Mr. Bales:** I don't have those figures. Of course that's under the Minister of Government Services (Mr. Snow).

**Mr. Singer:** It wouldn't be your department.

I was going to deal with—

**Hon. Mr. Bales:** I hope you were successful.

**Mr. Singer:** I don't know. Mr. Justice Keith is going to think about it. My argument must have been good enough that he didn't immediately decide against me in any event.

There were three things that I wanted to talk about. One was the idea of new approaches in the law. I am very interested in the still-delayed report of the Law Reform Commission about the reorganization of the courts. The grapevine indicates to me that it has been delivered.

**Hon. Mr. Bales:** I dealt with that.

**Mr. Singer:** Oh you did? Have you got it?

**Mr. J. A. Renwick (Riverdale):** The courts are all reorganized.

**Mr. Singer:** Oh, they are all reorganized?

**Hon. Mr. Bales:** Can I take the time, Madam Chairman? I know Mr. Singer is interested in this: He made reference to it one day in the House. Perhaps I could just read this one paragraph:

As the Speech from the Throne indicates, it is the intention of my ministry to review and deal with the court's structure as a single system. It has become increasingly obvious that we must introduce certain modern management methods to the court's administration without jeopardizing or impairing the fundamental principles upon which that system operates. To this end the officials in my ministry have made certain studies which, together with the Law Reform Commission report, will form the basis for that review. That report is being produced in three parts, the first of which I have received. I anticipate I'll receive the second and third parts by June of this year. Because the first part of the report deals with only certain isolated aspects of the system, I propose to await delivery of the whole report before tabling it. It's my view that this is the only way in which a true perspective of the study can be appreciated, and the basic issues which have divided the commission itself considered in their total context. Those issues are so fundamental to the administration of justice they will provoke public debate. It is my view that it would be most unfair to the administration of justice to initiate that debate with only a partial and an incomplete return from the commission.

I say to you—

**Mr. Singer:** All right, what—

**Hon. Mr. Bales:** I say to you, in addition to that, that it is my intention, when the report is complete and is received, I want to release it. I would not want to bring in any changes or propose changes to the system until there has been ample time for study because we need the suggestions from the public, from all people on it.

**Mr. Singer:** Well, I would be very interested in the form that the study is going to take. Whenever it is made public, will there be an opportunity for members of the Legislature, for instance, to take a part in that study?

**Hon. Mr. Bales:** Take part in the discussions.

**Mr. Singer:** Yes, all right. Will there be an opportunity—I have suggested this before and successive attorneys general throw up their hands in horror and many judges do too, but I still think it's important—will there be an opportunity for some members of the Legislature, in any event, from all parties, to meet with some of the judges or a representative

group of the judges and talk about these things?

I think that is very important. The feeling has existed, and I think with good reason, that the judges are, as they should be on most things, insulated from the politicians. On the other hand, the reorganization of the courts and the reorganization of the system of administering justice in something that affects the judges in a political sense as well.

I think it would be most helpful if we could meet with a group; not just with the Chief Justice of Ontario; not just with the Chief Justice of the trial division but with a representative group of the court of appeal, of the trial bench and of the county bench as well, so that we could get their feelings. Our ability, particularly in opposition, to communicate with those august gentlemen—

**An hon. member:** There were three ladies recently appointed.

**Mr. Singer:** Two ladies now, three? Well, however many there are—has been very limited. It is true, on a morning like this morning, when I get a couple of whispers in my ear that the lights went out when the Chief Justice was trying to give some kind of a hearing or something, I get a little bit of feedback. The ability that we have to seriously discuss—not how judges decide things; not to interfere with their independence—but questions like the administration of justice, limits the opposition members in the role they can play. I think there are sufficiently trained and sufficiently aware members of the opposition who can deal with these things in proper perspective for the good of all of us. I would hope that something like this might be able to come about even though at first glance it is a little frightening.

**Hon. Mr. Bales:** Well, the judges made submissions to the Law Reform Commission on this matter. I am sure their views have been taken into account, particularly with Mr. McRuer there. Beyond that, while I think the suggestion you make has merit, it is something I would want to talk to the judges about and seek their views on. As far as I am concerned, we will want to make our submissions; I want to hear the views of a number of people in this.

**Mr. Singer:** I would appreciate, Mr. Attorney, if you could explore this. Yes.

**Hon. Mr. Bales:** I would not want to try to confine it to one little group and get those views only.



**Mr. Singer:** Or even one little group of the judges, because our Supreme Court bench and our county court bench has changed materially in the last few years.

**Hon. Mr. Bales:** Very much so.

**Mr. Singer:** I am not denigrating the Chief Justice or any of the more senior men on the bench. With greatest respect to all of them and they are very able and they all do a good job, there is a bunch of younger men on the bench now who have somewhat different ideas.

**Hon. Mr. Bales:** Well, maybe.

**Mr. Singer:** The system has not allowed us in recent years to talk to the new appointees. I gather the process has been that a new appointee isn't really worth listening to on this level unless he has sat on the bench for 25 or 30 years.

**Hon. Mr. Bales:** Oh, I wouldn't say that.

**An hon. member:** At least that.

**Hon. Mr. Bales:** I think when the matter comes out it is a complex matter and it isn't the kind of thing that is of interest to one group only. We are all involved; the public, as far as I am concerned. We will need the views of as many people as possible. I will certainly pursue your suggestion.

**Mr. Singer:** Fine. Now, there is a second point that concerns me. While I was sitting in chambers this morning I listened to an incident like this and I was cautioned by one of your employees that if I was going to bring it up I should say he was a great fellow—and he certainly was.

It involves the handling of divorce matters. There was an intervention by the Queen's Proctor this morning—quite properly so; there were certain irregularities in the matter which was before the court which he felt he had a responsibility to bring before the court, and which he did. I am unhappy about the way divorce actions, particularly undefended divorce actions, continue to be handled.

There was the descent upon those agents who were providing cheap divorces without legal qualification under the provisions of the Solicitors Act or whatever the pertinent statute was. I think there was a conviction. I gather they still carry on business, sometimes very sloppily to the harm of those people whom they apparently represent for small sums of money. Although the small sums of

money, I am told, are \$250 a case, 400 cases a week—or 400 cases a month.

**Hon. Mr. Bales:** They are putting up the price—I don't know whether you saw that?

**Mr. Singer:** They don't do badly in the whole scheme of things. I just wonder if there isn't some way that we, within the Ontario jurisdiction, can either change the method of handling uncontested divorces—particularly those where no question of custody is involved—to make it simpler so that we don't force the petitioner into very substantial costs, or what appear to be very substantial costs, and so that the whole process can be simplified and speeded up.

Now, I recognize that those responsible for this say "We review the procedures regularly," but I wonder if that really is enough. We have changed our view—society has changed its view about handling uncontested divorces. I don't know the extent to which we can move now within the statute because it is a federal statute and I recognize that presents a difficulty. It would seem to me, even listening casually this morning to someone else's motion, that there must be a better way of doing these things which will provide proper safeguards for those people who are affected; and, at the same time, reduce the cost to a minimal amount in a matter that really isn't complicated at all.

Somewhere along the line maybe there is a government kind of divorce service. I am not particularly criticizing members of the legal profession for charging \$500 or \$600 for it because there is a substantial overhead that has to be handled. But the waste of time and money and the call upon members of the public to put up large sums of money for uncontested divorces where there is no question of custody involved could, I think, be remedied substantially at the Ontario level. I would hope that this could be a very serious matter that your department would have a good look at it.

**Hon. Mr. Bales:** It would be, of course, with the Law Society. We have to work with them in every way.

**Mr. Singer:** Well, yes, with the law Society; hopefully with its concurrence. But the Attorney General and the whole Ministry of Justice—

**Hon. Mr. Bales:** But you have—

**Mr. Singer:** —has done things from time to time that were not necessarily with the concurrence of the Law Society.



Hon. Mr. Bales: Did one—

Mr. Singer: Certainly, I would hope they would be consulted and if you don't consult them, they are going to be very unhappy and you'll hear from them. But I would think with the co-operation of the Law Society—

Hon. Mr. Bales: I mean with co-operation, not necessarily going with subservience to them.

Mr. Singer: Yes. That's right.

Hon. Mr. Bales: We have to work with them.

Mr. Singer: Do you have any plans in mind along this line?

Hon. Mr. Bales: Of course, there may be some things in the report, but look at the Ottawa experiment of a duty counsel dealing with the matters, one after the other. It may be that there can be extensions of that kind of system which would alleviate the situation considerably.

Incidentally, I happened to see on television one night recently, one of those lay persons who was providing a divorce service. And it was quite clear—I don't want to be unfair to him—but it was quite clear that those costs were not cheap—

Mr. Singer: I agree.

Hon. Mr. Bales: They were not cheap by any means. People may have initially been under the impression that it was a minimal charge, but by the time you added up all the other things, it appeared that the charges were quite extensive.

Mr. Singer: No, nor are the services sufficient—

Hon. Mr. Bales: That's right.

Mr. Singer: —because in the one I was listening to this morning, there was the service of various documents, the swearing of various affidavits, the whole thing was a terrible mess—and that was why the Queen's Proctor came in.

I am sure the poor chap who was the subject of all of this, who merely wanted a divorce—and apparently at the original trial the judge agreed that he should have one—is just frustrated. He has paid his \$200 or \$225 and now he is all messed up because he relied on this service. And along comes a new official, the Queen's Proctor, who is saying, "No, no, stop it," as he should do. So I am

certainly not criticizing him. He is doing what he is there for.

Hon. Mr. Bales: It appears that their main function seemed to be to fill in papers, rightly or wrongly; but having filled them in they were not in a position to give any real advice; nor were they prepared or able to deal with a case that was other than entirely routine. In anything beyond that, they seemed to be completely beyond their depths.

Mr. Singer: Well, Mr. Attorney, it just isn't sufficient to say that they are not doing the job they should; they are not providing a cheap service.

Hon. Mr. Bales: No.

Mr. Singer: The fact that they have suddenly appeared indicates that somebody felt that there was a need for their services. The fact is I understand they are taking in an awful lot of money, and this indicates further that there is a need for their services. The fact that a substantial number of litigants are resorting to them indicates that somewhere the profession and the courts are not dealing with this problem adequately. All of this would indicate that there must be some kind of, to me at any rate, public interest, that would indicate the intervention of the justice machinery within the Province of Ontario to set this whole thing in order.

Hon. Mr. Bales: I would hope that in the family law study that is going on, there will be recommendations there—maybe not the whole answer, but I would hope there would be recommendations.

Mr. Singer: I get very frustrated at these things that seem to carry on for such a long period of time—reorganization of the courts. I picked up the Globe and Mail the other morning and it set out the agenda for the sessions of the various sectors across Ontario where the itinerant justices are going to travel over the next year. They are going into little towns all over Ontario—where there is really no reason in the world that they should go—to hold Supreme Court general sessions; only because it has been done that way since at least 1867, and probably before that.

Centres of population have changed, but the system continues. So they are wandering into these little towns which must be a waste of money. It must be a waste of the judges' time, who are going to be unhappy and cranky when they show up at some little motel and sleep in a room they don't like and listen to a case that may or may not be

ready to go on, merely because at the beginning of the year one of your assistants there figured out that this is the schedule for this year; and over the next 12-month period they are going to go jaunting around Ontario to all of these little towns.

**Hon. Mr. Bales:** We don't figure it out; the judges do it.

**Mr. Singer:** Well, whoever figures it out.

**Hon. Mr. Bales:** Nevertheless, isn't part of the secret to bring in greater regionalization of the system?

**Mr. Singer:** Why don't we do it?

**Hon. Mr. Bales:** Well, in fairness, this is all part of the change, and there are going to be some very fundamental changes, I think. But, being as close as we are to the reports—part of the discussion that you referred to earlier—I think you must have that and look at the whole picture and make those kind of fundamental changes.

**Mr. Singer:** Well, what puzzles me, for instance about that procedure, whether the judges decide it or the civil service, your civil servants decide—

**Hon. Mr. Bales:** Well, they are doing it under the present system.

**Mr. Singer:** Yes. I see no point in continuing to enshrine as seats of the Supreme Court sittings these tiny little towns in Ontario. They just don't warrant all the waste of time and money and expense of holding a session of the Supreme Court in that location.

**Hon. Mr. Bales:** I am in agreement with that.

**Mr. Singer:** So, couldn't we start even in advance of the finite planning to eliminate some of those?

**Hon. Mr. Bales:** I think this year that we are into the time of making those kind of changes.

**Mr. Singer:** I meant to clip that column from the Globe that has them here, because some of the names of the municipalities where some of these hearings were going to take place would be quite amusing, I think. There is just no rhyme or reason that I can see for some of them being included, except that they were there in 1867.

**Hon. Mr. Bales:** Including L'Orignal, apparently.

**Mr. Singer:** Well, there is one—I'm sorry.

**Mr. T. A. Wardle (Beaches-Woodbine):** Madam Chairman, I don't know whether at this point Mr. Singer would permit a question.

**Mr. Singer:** Sure.

**Mr. Wardle:** It's a matter of making divorce easier, Madam Chairman. As a layman, I have respect for the legal profession, but I am wondering whether easier divorce is the answer. I know that many lawyers have taken the children and social conditions into account. I am just wondering, if there is a trend to easier divorce whether people would be divorced who maybe would be reconciled if a lawyer would take an interest in the case—rather than have a person who would just take the money and process the divorce; that sort of thing. As a layman that is of concern to me, and I just wondered if Mr. Singer had any thoughts on that.

**Mr. Singer:** Well, there is a provision in the Divorce Act of Canada that requires the lawyer to certify that he has attempted to reconcile the parties. There is also a requirement, and the judges ask that it be observed, that someone outside has been consulted. But really the majority of work as I quickly see it that comes before our courts relating to divorce, deals with deserted spouses who haven't seen the marriage partner for three or five years; there are no children; they want their independent status and there are certain steps that they have to go through.

I agree with you that where there are children involved, or where there is a serious dispute about the grounds, then there has to be a hearing. But I would think that in the vast majority of divorce petitions, it is brought by one spouse—the other one having disappeared or not wanting to defend. And this is where the apparent simplicity appeals to the prospective litigant. He goes to one of these agencies which very often gets it fouled up and which, in the long run, doesn't save him any money anyway.

The third point I wanted to make was this, Mr. Attorney. I think that over recent years we have made very substantial progress with legal aid. I think it is functioning pretty well—not expertly, but pretty well. That is at one end of the scale.

At the top end of the scale, those with sufficient income, certainly with large businesses, large corporations, and so on, can afford and have to make provision for affording to them adequate legal advice and legal representation when it is necessary.



Now, in the last six months or a year there have begun to be discussions across Canada and through many jurisdictions in the United States, about the possibility of working out some system of legal aid insurance for the middle income group; some kind of protection for people who ordinarily don't resort to a lawyer, but who might want, might be prepared to pay some kind of an insurance premium to provide a lawyer for a service that might be necessary.

I know this has been a subject of some discussion at meetings of the bar association; there have been discussions in California and some other jurisdictions. At the moment it is a nice, happy academic discussion at certain group meetings of the bar association, but it is this kind of experimentation and leadership that I would hope would come from the Attorney General's department.

Have you and your people been looking into this at all; do you have any theories about it? It is not a simple thing; it is a very, very complex matter. But shouldn't the lead in many of these things come from the people charged with the administration of justice rather than from the lawyers?

**Hon. Mr. Bales:** Well, Mr. Robins, is treasurer—you were there when he made the speech.

**Mr. Singer:** Yes, I was.

**Hon. Mr. Bales:** Go ahead, I interrupted you.

Incidentally, before Mr. Callaghan says anything, in case there are members here who are not familiar with the people in the ministry who are here today—because as we go along through the questioning or the various votes, they will want to direct questions to people on the staff; and that's just fine with me—may I introduce them?

You know Mr. Callaghan, the Deputy Attorney General, sitting on my left. Then there is Mr. Emil Pukacz, who is the general manager. And Marshall Pollock, who is the assistant deputy minister, dealing with policy development.

The gentleman over on the side wall I would particularly mention, and that is Mr. Ken Parfitt. I mention Mr. Parfitt particularly; he is the comptroller in the ministry, and he has been in this ministry, or at least in government service, for most of the last 40 years. He looks much too young to retire, but I have to tell you that officially, as of today, he is going to retire. In 10 minutes he is theoretically going to retire but I am going

to prevail upon him to be with us throughout the estimates.

At the back of the room, you see John Hilton, whom you all know as assistant deputy minister, and Mr. A. A. Russell, the inspector of legal offices and deputy minister. Mr. Clay Powell is there. He is the senior Crown counsel in the criminal field. Blenus Wright is there in the civil field, and Pat LeSage who is now the director of the Crown attorneys in the province.

Those gentlemen will join us up here from time to time as we come to these various votes. I wanted you to know who they are and I would like them to take part in the interchange. Mr. Callaghan, you were going to say something.

**Mr. F. W. Callaghan** (Deputy Attorney General): I was just going to reply to Mr. Singer's question as to insuring legal services, what direction the ministry should take with reference to that.

That puts the ministry in a conundrum. We have looked at this problem. If we start proposing insurance schemes for this type of situation, it puts the ministry into the position where it is acknowledging that maybe this type of insurance is something the government should be undertaking. At that stage you are running into the question of whether or not you are interfering with the independence of the profession.

The real thrust the ministry should have in this area is reviewing legal aid to see if legal aid can accommodate this group, because that is an existing programme in our ministry. The question of whether or not the lawyers themselves want to initiate insurance programmes is an area where I think it is very questionable that the Ministry of the Attorney General, which is responsible for the administration of justice, should really get involved. If the Law Society or the legal profession in the province wants to generate that kind of programme, then it can generate it, but eventually that programme would have to be reviewed by the government and presumably the Attorney General. So I would question whether or not we should be taking initiatives in that area.

The initiative the ministry should be taking should be in other areas, I would think, with reference to legal costs and the effect of court changes on the economics of practising law. If the individuals themselves want to get into the insuring of their services, that cannot be effected without the approval of the government and I would suggest that



they should bring forward that proposal. This is a real ethical or philosophical problem which we have looked at, and maybe we are wrong on that.

If there are ways that we should be suggesting that the lawyers can insure their services, then maybe you can suggest them to us. But as a matter of the philosophy and the responsibility of the law officers, we question whether or not we should get into that one. We questioned it when we looked at it.

**Mr. Singer:** I think I could quarrel with you on where the responsibility lies. Undoubtedly, a fair bit of it lies on the profession but the profession, by and large, is a busy profession and the kind of studies that take place at the Canadian Bar Association and the subcommittees, and so on, move slowly. They move dependent on the initiative of various members of those subsections, and so on. I expressed my feeling, as somewhat of an observer of the scene, that the legal profession is not the most popular profession of those professions extant in the Province of Ontario. One of the reasons is that the public believes that most lawyers charge too much.

The people who benefit from Legal Aid are accommodated. The people who are at the other end of the ladder are accommodated. It is that kind of middle group that is not going to be able to benefit from Legal Aid who would be offended if one suggested that they should resort to legal aid, but who might have a serious automobile accident which they want to pursue, or might have a domestic problem involving custody or alimony or that sort of thing that they want to pursue, or might have any one of the other many, many things that come before courts. They are really horribly frightened about approaching the legal process, because they have no idea of the extent to which they are going to get involved in dollars. If the ministry says, "Well, ethically perhaps we should wait for the profession," and if the profession say, "Well, we are going to study it"—and these studies take a long, long time—the situation is going to get worse before it gets better.

**Mr. Callaghan:** What you are asking the ministry to do, Mr. Singer, is work out or study how lawyers can insure their fees, and this is a thing that concerns us. Surely it is not our function to study how a lawyer is going to ensure that he gets paid. We should be more concerned with ensuring that the people who need that service can get it. If they can't get it through Legal Aid, then

maybe we should be working on the lawyers' fees. To work out a method for insuring a lawyer's fee is really something, I think, in which the Law Society should get involved.

**Mr. Singer:** I quarrel with your thrust there. I don't think the concern is how the lawyers should get their fees. I think the concern is how the public should be served, and I think this is the responsibility of the ministry. I can't imagine that tomorrow morning somebody is going to come forward and say, "Here is the new legal insurance policy." I would like to see within the Attorney General's department, or somewhere within the Justice galaxy something a little more forceful than the Law Reform Commission spending the great length of time it does in dealing with these very serious problems.

**Hon. Mr. Bales:** I would like it more forceful, too.

**Mr. Singer:** Pardon?

**Hon. Mr. Bales:** I would like it more forceful, too.

**Mr. Singer:** Yes. I would like to see a recognition of the problem. I don't think directly the thrust of this at all is to make sure that the lawyers collect their fees, because the legal profession has been reasonably able to look after itself, but I wonder at the extent to which it has been looking after the public. Has it been doing it as well as it could? I think there is room for improvement in this middle group.

The remarks of the Treasurer (Mr. White), and he has repeated them a couple of times, and the ones that the Attorney General is referring to, I think are most timely. I think that together with the profession, with the Law Society of Upper Canada, the Canadian Bar Association, and with some kind of a thrust coming out of the ministry, that day could come closer. I don't envisage a legal insurance plan tomorrow morning or even a year from now, but we are not going to get one if everyone keeps saying, "This isn't our responsibility, and let's wait until the lawyers come up with it." Those are the three points that I want to make.

**Mrs. M. Campbell (St. George):** Madam Chairman, in view of the fact that you have announced that we would be adjourning at 5 o'clock, I wonder if it would be appropriate at this time for me to put one question which rather follows along Mr. Singer's line.

I wonder if the ministry has been concerned at all about the growing consolidation of legal offices and services and the fact that there are groups in the community which avail themselves of all of these various offices from time to time and, therefore, growingly preclude people from having available to them legal services. I am thinking, of course, primarily of citizens' or ratepayers' people, and these sorts of people who have started out with lawyers only to find that the developers, for example, have used all of the services of all the large firms.

I don't know what you can do about this sort of thing, but I wondered if you had had any concern about what seems to be developing in this kind of a municipality and presumably in other areas of the same sort.

**Hon. Mr. Bales:** To a degree, what I think you are referring to might be group action or a group case through Legal Aid.

**Mrs. Campbell:** I don't think these people would altogether be eligible for Legal Aid and that is why I am following through with another aspect that Mr. Singer mentioned.

**Hon. Mr. Bales:** It is that kind of situation, though, isn't it? It's a group of people seeking someone to represent its interests in a general matter. There have been discussions with Legal Aid people about those matters as to what is their approach and how could they move into some of those situations, because there have been requests. There is no question about that. There have been requests there to see whether they can move in within the scope of the present type of regulations, and so on. Mr. Callaghan may be able to answer.

**Mr. Callaghan:** We have had occasions where groups have requested representation before the Municipal Board on rate hearings and things of that sort. Legal Aid has had these requests, and I think has turned them down in the past. We have asked them to re-examine that position with a view to ascertaining: (a) the extent of that need; and (b) the method by which you could, under the plan, operate a representation service for that type of situation.

It would require some sort of screening so that it didn't get abused. There are different groups with the same interests that may not want the same lawyer. I think you would have to give some discretion to the administrators of the plan to handle that. The Legal Aid committee has agreed to take a hard look at the situation and let the Attorney General know how it can be handled, if it can be, within the plan. That is a real problem.

**Mrs. Campbell:** Would that mean that Legal Aid in those cases would pre-empt the ethics of the profession in that each of these firms has dealt with this person as a client and suddenly you run out of lawyers who can handle it in accordance with their own ethics? That is what I am talking about.

**Mr. Callaghan:** No, I don't think it would. I think the plan would have to be developed, so that if you had a group which decided, "All right, we want representation because of a common interest" then it could, if the circumstances warrant it. You have to give some discretion to the director of Legal Aid in these circumstances. He would be able then to say, "Yes, this is one of those situations," or set out criteria and guidelines which will be approved and which everybody will agree are reasonable. He would then be able to say, "Yes, this is one of those situations where Legal Aid can afford it or will provide a lawyer" for that ratepayers' association, that tenants' association, or whatever group has a common and recognizable interest in the hearing.

With the development of this type of hearing today, where more people see a community of interest one with the other, it might very well be a new area for the extension of the Legal Aid plan. The legal aid committee has been asked to look into that particular problem and to see if it can provide a scheme whereby that type of representation can be afforded.

**Madam Chairman:** Thank you, Mr. Callaghan. I think this is a good point at which to stop.

It being 5:02 o'clock, p.m., the committee took recess.

CONTENTS

---

Monday, April 30, 1973

Justice policy programme .....	S-3
Recess .....	S-22







# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Monday, April 30, 1973**

**Evening Session**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**





## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

MONDAY, APRIL 30, 1973

The committee resumed at 8:30 o'clock, p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

**Madam Chairman:** Mrs. Campbell and gentlemen, if the meeting will come to order, I must first record the substitutions. The substitutions I have this evening are Mr. Singer for Mr. Braithwaite, Mrs. Campbell for Mr. Roy.

**Mr. V. M. Singer (Downsview):** Oh no, I'm not substituting for anybody. I am on the committee.

**Madam Chairman:** You are?

**Mr. Singer:** Yes, I am.

**Mrs. M. Campbell (St. George):** Yes, he is.

**Mr. P. D. Lawlor (Lakeshore):** Well, you look as though you are substitutes.

**Madam Chairman:** Well, you are not listed as being on the—

**Mr. Singer:** I am on the Justice committee, which together with the other committee, forms the estimates; and I have been on this committee and I still am—and I am not substituting for anybody.

**Madam Chairman:** You are not on the duly appointed list, Mr. Singer, so I have to record you so you can vote.

**Mr. Singer:** No, you don't really have to, Madam Chairman, because this committee is made up of two committees, one of which is the Justice committee and the other one is the—

**Madam Chairman:** I don't believe so, Mr. Singer. This is the standing committee on estimates, of which you are not a member.

**Mr. Singer:** No. But there are two committees, one and two, which conjointly make up the estimates committee.

**Madam Chairman:** No, this is not a joint committee. I am sorry, Mr. Singer: This is the

standing committee. So I would just like to put you down so you have the privilege of being able to vote.

**Mr. Singer:** Well, all right, I will bring that back a little later; but I am sure I have some standing here and I am going to continue to—

**Madam Chairman:** I have Mr. Lawlor for Mr. Deans. Mr. Young, are you substituting?

**Mr. F. Young (Yorkview):** I am here with something to say; I don't care whether I vote or not as long as I can—

**Hon. D. A. Bales (Attorney General):** Mr. Young, if I'm not mistaken, probably has a matter he wishes to raise.

**Mr. Singer:** Mr. Young is a very eminent member of the Legislature, I am sure.

**Madam Chairman:** All right, I will put you down for Mr. Stokes and that gives you status to vote.

**Mr. Young:** Handle me any way you wish as long as I can say my say.

**Madam Chairman:** All right. The meeting is now in session. If you care to proceed, Mr. Singer, please do.

**Mr. Singer:** Okay, I was getting an answer from the deputy minister.

**Madam Chairman:** Okay, right!

**Mr. E. W. Martel (Sudbury East):** He has got a copy. Somebody stole mine out of the building. The police efficiency around here isn't that great.

**Hon. Mr. Bales:** No, we were just getting started. That's carrying things—

**Mrs. Campbell:** Did they steal your purse at the same time?

**Mr. Martel:** No, there is nothing to steal.

**Mrs. Campbell:** They stole a purse from the NDP office. Not mine, I keep mine with me morning, noon and night. I was warned. We need justice around here.

Madam Chairman: Are you making a reply or what are you doing? The spokesman for the Liberal Party is now making his preliminary statement.

Mr. Singer: Well, I thought I made a point with the deputy minister.

Madam Chairman: We have been having an informal session.

Mr. Singer: Formal or informal, could we carry on?

Mr. R. G. Eaton (Middlesex South): Now you have got to repeat it all again to get it on the record.

Mr. Singer: I will if you insist.

Mr. F. W. Callaghan (Deputy Attorney General): Mr. Singer, I think, inquired as to why the royal commissioners could select counsel from amongst the bar at large without some restriction by government. Now, Mr. Singer, the policy of the government has been in the past, rightly or wrongly, that the royal commissioner should have the opportunity of selecting his own counsel. This is primarily from the point of view that if he could pick his own counsel, there would be no question as to the credibility of that counsel and the fairness and openness of the inquiry.

I would like to draw your attention, sir, to 1968 when the royal commissioner appointed to inquire into the conduct of two provincial court judges in this province, selected myself as counsel for his commission.

Mr. Singer: I remember that very well.

Mr. Callaghan: At that stage I remember there were many comments made in the House prior to the opening of the commission as to the fact that the government might well be putting on the commission a counsel who could influence the commission on the outcome of its inquiry. At that time the Attorney General for the province, Mr. Wishart, said to the House—

Interjection by an hon. member.

Mr. Singer: There was a remark—can I interrupt you just for a moment? I just wonder if the hon. gentleman who made that remark noted any comments of mine along that line addressed to the Deputy Attorney General.

Hon. Mr. Bales: He wasn't in the House at that time.

Mr. Lawlor: Check Hansard on that.

Mr. Singer: No he wasn't, and that is why his remark was rather innocuous.

Mr. Callaghan: I was just trying to make a point, Mr. Singer, that at that time the government said that was its policy. The commissioner selected counsel from the ministry as his counsel in that particular inquiry, because that struck at the heart of the administration of justice and what was going on; and that was the reason why the commissioner selected such counsel. Because of the arguments and the statements that were made in the House, the Attorney General of the day, Mr. Wishart, said to just await the outcome of the inquiry to see how the matter was handled.

When the inquiry was over, the recommendations came down, and I think generally they were accepted. But the problem that was raised at that time was really the viability and the appearance of counsel from the ministry appearing on a royal commission. I think that question was debated by yourself and other members of the House.

I don't think anybody questioned the way that inquiry was conducted at that time; nor since have they ever questioned it. For that reason it has generally been felt in the ministry that since that time counsel should come from outside the ministry—for a number of reasons.

One particular reason, which is very important and is often overlooked, is that in inquiries such as Atlantic Acceptance, where criminal charges can arise out of the conduct of the hearings, and where evidence which was not available prior to the hearings becomes available, it would be inappropriate for counsel from the ministry to conduct the inquiry and then turn around on the evidence that they adduced at a royal commission and prosecute people criminally for that.

Now, as a result it has been the policy of the ministry that, by and large, counsel should not go from the ministry regardless of the request of the commissioner. Counsel from the ministry should not go on these royal commissions for that reason. Above all, what we are trying to maintain is the independence and integrity of the criminal prosecutions that follow from royal commissions, if any; they may not. But when they did follow, it was most inappropriate that the counsel at the royal commission generated his own evidence and then turned around and took that evidence, which he generated where people were not protected, and prosecuted them.



By and large since that time the government has adopted the policy that if you want a counsel you look for him outside.

**Hon. Mr. Bales:** If I could just add something in that regard; that was one of the points that I made, and the deputy was with me, to Judge Waisberg.

**Mr. Singer:** Could I join this for a moment, without zeroing in on Frank Callaghan, as an individual—

**Mr. Callaghan:** By all means.

**Mr. Singer:** And I certainly wouldn't zero in on the Deputy Attorney General unless I had some occasion to question his integrity, which I don't.

What bothers me is this. We have become very concerned with the extent of the provincial budget, which has now reached the phenomenal amount of \$7.3 billion. This is a figure that very few of us could even imagine in our widest dreams three or four or five years ago. We have also concerned ourselves with the kind of charges that some of these counsel have made.

Now, Shepherd is well known to me and I have the highest regard for Shepherd's integrity. But I think the fees that he charged and were paid to him were inordinate, outrageous, and beyond all possible reasonable concern for two years' service, which was part-time.

**Hon. Mr. Bales:** May I add a point there? Today, I said in the House those matters have to go through Management Board and be approved. Without criticism, it wasn't the same in 1968 as I appreciate it. He was there to do a job and to charge according to his time. Today, he didn't want to take this and he demurred to a degree; he did accept it. But he does so and he will have to function on the basis of a tariff that will be established by Management Board on a basis of so much when he appears in public hearings before the judge or the commissioner—and another amount, or a lesser amount, when he works privately.

**Mr. Singer:** Could I then urge this as a word of caution? If you are concerned about what happened in the past, and I gather by use of the word "today" that you are a little concerned with me about what happened in 1968, then would it not be more than the reasonable course of caution to tell the House in advance that counsel, whoever he might be, is worth \$300, \$400, or \$500 a day for every full day, which will be calculated ac-

cording to somebody's reckoning; that the list of counsel available are 15 to 20 people, and that list will be made available; whether it includes Shepherd or McAuley or Lawlor or Singer, or whoever it is, that that list will be available and published, and they will all be available at the same rate; and that perhaps in the incidence of a royal commission that you make that exception? Let me move from the royal commission and counsel to a royal commission into something like the Ontario Hydro matter. Now, I have the greatest respect for the firm of Harries, Houser, Brown, and whoever. Elmer Houser is a great lawyer, and I have known him many years.

**Mr. Callaghan:** That's a different question.

**Mr. Singer:** Somerville Brown and I went to school together and he was the bronze medalist in my year. I have great respect for his ability too. It is a good firm, and they do good, honest, legal work, and they charge according to what they think their ability is worth; which really in legal terms relates to how much can they reasonably get without gouging whoever is hiring them.

Why was it necessary to hire Harries, Houser and Brown to do the Hydro negotiations? Why in this galaxy of Attorney General's advisers, and in the good salaries that are now being paid—and 10 years ago and five years ago I quarrelled with your predecessors, saying: "You don't pay enough to your legal people to attract a good intelligence into the civil service." Today I think that has changed.

**Hon. Mr. Bales:** That's right.

**Mr. Singer:** Today you are paying reasonable salaries for competent lawyers who are equally competent to advise about Hydro contracts as complicated as they might be. Why was it necessary, in the Hydro incident, to go outside the confines of government to hire Harries, Houser, as capable as they might be? Why was it necessary in the Dow matter, which has been seized of by you and by Hilton and by others?

Okay, you hired Dubin at one point and Dubin has now gone on to the Court of Appeal where he's adjudicating marvelously and doing everything fair and right for all the people of Ontario. Dubin having gone and you're off the hook with Dubin, why haven't you got somebody within your own department who could seize that Dow action, if it's got any validity and I question the validity of it too, who could prosecute that

Dow action to its ultimate and to the point where eventually the government's going to lose? Why did you have to go out again and hire another outside counsel, whose name has only been whispered in my ear and whose name I won't even mention? But why haven't you got somebody in your department?

**Hon. Mr. Bales:** The name wasn't whispered in your ear and you know that.

**Mr. Singer:** Pardon?

**Hon. Mr. Bales:** The name wasn't whispered in your ear.

**Mr. Singer:** Well, all right. I won't say it out loud because you haven't announced it yet. You haven't sent me a bulletin saying who it was.

**Hon. Mr. Bales:** I never sent you a bulletin.

**Mr. Singer:** No, no, but usually you send me a bulletin about the latest thing you've done. You haven't sent me a bulletin on who you hired as the new counsel.

**Hon. Mr. Bales:** Honest, Pat, I don't favour him over you.

**Mr. Singer:** Yes, but why can't you do it within your own department?

**Mr. Lawlor:** I haven't had a bulletin in years.

**Mr. Singer:** That's the simple question.

**Mr. Callaghan:** The minister has indicated—

**Mr. Singer:** You're paying a good salary. We're going to vote you a heck of a lot of money, more than ever before; ever, ever before; more money for justice.

**Hon. Mr. Bales:** The deputy wants to reply and I asked him to.

**Mr. Callaghan:** Mr. Singer, I would like to point out a number of things. First off, it's only been since April 2, 1973, 28 days ago, that the Attorney General has had the responsibility for the total legal service to government. That responsibility only applies to ministries of government. It does not apply to boards and agencies and independent commissions. The provision of legal service to those bodies is still under study.

At the present time the Attorney General has no control over their legal service or the manner in which they are provided with legal advice. So what the Hydro has done now and in the past, the Attorney General has no control over. But we hope that within the

year government will decide that the legal service that is being provided to other ministries is adequate and, therefore, the boards and agencies and commissions outside government should be part of the total integrated legal service plan.

The result of the present situation is that when a board or commission wishes to retain outside counsel to advise them on anything, they can, if it's within the authority provided to them by the Legislature, retain that counsel without consultation with the Attorney General. That will change, hopefully, over the years, but at present Hydro can retain the man in the moon if they want, to advise them on these things.

Secondly, in providing a total and integrated legal service to government you have to recognize, with respect, sir, that over the years the ministry has not had the opportunity to develop the expertise in these areas. In the areas of international negotiations on contracts like the type that would be involved in the Transportation and Communications project, we haven't the expertise to hire these German or English engineers to build this system. It would be folly to ask lawyers, as you well recognize, sir, who have no experience in international negotiations to enter upon a negotiation which requires them to protect so many diverse interests as the Crown rights, the industrial rights, the realty rights and the actual operational rights which arise out of that type of programme.

We don't have the expertise in the government now, but if we have an integrated legal services plan like we have had since April 2, we would hope that in the next five years in various areas we could provide that expertise to the government so that when the occasion arises in the future, whoever the government may be, there is somebody there who can advise them on it.

But I don't think anybody kids himself that with the great multiplicity of areas of legal research today that you've discussed earlier, that any one law group can provide total expertise in every area. No matter what legal service the ministry provides to the other ministries, there's no way that we can provide total and complete expertise. We can't provide expertise in industrial patent work because we don't have enough of it and it's much safer for the public if we retain people who spend their life in that one secluded little area.

This is the idea of the integrated legal service. Over the next four to five years we will develop expertise in these areas and,



hopefully, will be able to cut down the outside retainers. Then the government can say, "What happens to industrial property? Well, we have an expert in this area that can advise you on it." Right now we don't have it.

The Dow case is a particular problem. Maybe the Attorney General is better qualified to discuss the Dow case than I am, because at one stage—

**Mr. Singer:** I would like to find the most qualified one to discuss that.

**Mr. Callaghan:** Well, when the Dow case arose, it was shortly after I'd left the government back in 1970. At that stage I had a fair bit of experience in Crown litigation and I was retained when I was in private practice to look into that. When I left private practice to come back to the government, the government then retained Mr. Dubin to look into it. Since then they've escalated; they've retained Mr. Robinette to look into it. That case is progressing in a normal course.

**Mr. Singer:** That's an interesting word—escalated.

**Mr. Callaghan:** But I think that the—

**Hon. Mr. Bales:** You recall the history of the last few years and certain situations?

**Mr. Singer:** Yes, I recall the Dow case very well.

**Hon. Mr. Bales:** No, I'm thinking about other situations when we say escalated.

**Mr. Callaghan:** The point I'd like to make is that the ministry, with great respect, if I may say it now, has terrific expertise in criminal law. I would put the expertise in criminal law of our ministry against any group, federal or provincial, in this country, defence or Crown. We have, with respect, the greatest group of lawyers in the criminal area that exist in this country, and I think the public are well served by them. They act independently, they act as Crown law officers should. We are developing the same expertise civilly, but the expertise in civil law, as any practising lawyer well recognizes—yourself, Mr. Lawlor, Her Honour Judge Campbell, they recognize—

**Hon. Mr. Bales:** Former.

**Mr. Callaghan:** Former Judge Campbell. They recognize that the civil law expands over many diverse areas and it takes time to develop the expertise. It's the hope of the ministry that in the next 10 years, and I

don't suggest any shorter time than that, we can provide to the public a total integrated, complete legal service. But right now, sir, we can't do it. When something comes up like what they're doing in Transportation and Communications—we don't have any control over Hydro, but Transportation and Communications—there's no way we can provide that service, and it would be folly to try to provide it with people who don't have the competence.

**Mr. Singer:** Would it be somewhat reasonable to suggest that if the Premier (Mr. Davis) rises in his place tomorrow afternoon and says "I'm going to have a royal commission into subject X and I'm going to name Judge Y to be the royal commissioner," that at the same time an announcement could be made that we have made available to Judge Y the list of the following 20 people we would suggest might be suitable for counsel, and that the rate will be X dollars a day for those people? Don't you think that that would remove a certain obvious criticism from the government's position in this regard?

**Hon. Mr. Bales:** I would take exception to—

**Mr. Singer:** Without zeroing in and saying you must choose someone and so forth? At least one of two things would happen. If the government has given a somewhat objective opinion in its long list of 20 people, these are the people we consider might be qualified; secondly, that the rate should be a rate which is a reasonable rate that we could accept.

**Hon. Mr. Bales:** I would only object to one thing. I feel very strongly that on a royal commission the commissioner must have a free hand to choose his own counsel. I don't want it to appear at any time that there has been a group put before him and he has to choose—he won't accept that. It's not fair to those people and it's not fair to the person he actually chooses. In my view it undermines the royal commission.

I have no real objection, and I would say to you that it is a matter of policy. We are endeavouring to establish a fairly standard basis on which counsel would be paid. I hope this wouldn't be misinterpreted, but I think from time to time even the most eminent counsel, if they're asked to, should accept an assignment from the government, perhaps at a lesser amount than they would be paid by private practice. I know they do this. We should pay them adequately, but we shouldn't



be bidding for the top person. I think from time to time people in the legal profession have an obligation, if they are asked, to accept assignments from the government on behalf of the Crown.

**Mr. Singer:** Well, Madam Chairman, I think what the Attorney General says is very noble, but I would suggest that you could save yourselves an awful lot of problems if you could establish a panel, and I don't think that would be very difficult.

**Hon. Mr. Bales:** In essence we have a panel but it is not—

**Mr. Singer:** I don't care about the political qualifications of the names you would put on that panel. The test would be such that would be satisfactory to the government and the opposition critics, of people whom the government, knowledgeable members and the opposition critics—who, hopefully, are equally knowledgeable—would recognize as competent legal persons, quite apart from any legal qualifications they have.

You could then fix a dollar amount, a per diem amount, which any practising lawyer would recognize as reasonably fair, not the top dollar. I think you would avoid the kind of criticism that you are now being subjected to—and I think very validly being subjected to—when, by some process which even though you have explained it, is still not too clear to me, a gentleman named Shepherd is chosen again.

I say again I have no personal criticism of Shepherd except that I know who Ab Shepherd is. I went to school with him and I know who his friends are and I know he is a good lawyer. I know that when Tory affairs come up he has been an authority and I also know what he charged for two years' work.

When Shepherd again is chosen out of a list that we didn't see and at a rate that you aren't prepared to tell us, I say that you invite criticism. The method I would suggest by which you could avoid that, is if you would have a list of 20 people which could include Shepherd and McAuley and Dubin and Robinette and Lawlor and Singer and Campbell and whoever else you want to put on it at a rate of X dollars a day. Then let the commissioner choose from among them.

I think you would go a long way to alleviating the public suspicion that is bound to be levelled at you when you do it in the mysterious way which is the way you are doing it.

**Hon. Mr. Bales:** I accept to a degree what you say. If you would see the list of counsel that we in the privacy of my office went over, there is no political consideration in it.

**Mr. Singer:** I accept your word. You are an honest man, but tell us what the list is.

**Hon. Mr. Bales:** It is on the basis of ability for the particular assignment at hand, because the assignments vary from time to time.

**Mr. Singer:** The member for Lakeshore is very busy and so am I, so neither of us would be hurt if our names weren't on the list.

**Hon. Mr. Bales:** I have to keep you both pure so I couldn't take you on it.

**Mr. Singer:** Show is who else is on the list and what the top rate is.

**Hon. Mr. Bales:** I am not going to bandy about names but I would have no hesitation, for example, in a discussion in my office—

**Mr. Singer:** I don't want to see it privately. I want to see it publicly.

**Hon. Mr. Bales:** That is where you and I differ because I don't think those people's names should be bandied about publicly as being possible people. Perhaps other people would give the impression that they were seeking work but these happen to be people who are not seeking work. In almost every instance we would have to urge them and ask them to take on the assignment.

**Madam Chairman:** Mr. Singer, you said you had three points to make. Does this complete your third point? Can we start the—

**Mr. Singer:** That completes it for the moment, Madam Chairman. I am quite prepared to hear what the committee says. I may be back though.

**Madam Chairman:** All right. If so, I would like to start the first vote.

**Mr. Lawlor:** Madam Chairman, before you start—

**Madam Chairman:** Have you been sitting there absolutely burning with a question?

**Mr. Lawlor:** Well, there are some preliminary overall matters, two or three of them, which I would like to clear up before we launch into the specific items.

On page 1 of the estimates, we can get down to the page, at least—

**Madam Chairman:** Are you referring to J12?

**Mr. Lawlor:** Page J11. There is a reconciliation statement and at some time in the future I would be happy to receive from the Attorney General more detail with respect to the switching of various tasks and responsibility from one ministry to another. There was \$82 million switched away and I took the trouble of trying to make up a list. There are seven different areas—

**Hon. Mr. Bales:** Could I help you in general terms?

**Mr. Lawlor:** Yes.

**Hon. Mr. Bales:** Generally, the matters that were transferred from the ministry were, first of all, the land registry system, which was formerly the responsibility and under the direction of Mr. Russell. It was transferred to the Ministry of Consumer and Commercial Relations.

**Mr. Lawlor:** That was \$7 million switched away?

**Hon. Mr. Bales:** The probation section was transferred to the Ministry of Correctional Services. Mr. Sinclair, the deputy minister in that area, is sitting here tonight.

**Mr. Singer:** I thought he retired this afternoon?

**Hon. Mr. Bales:** Mr. Sinclair? Not that I know of. That was Mr. Parfitt of this ministry, not Mr. Sinclair.

The OPC, the Ontario Police Commission, was transferred to the new ministry of the Solicitor General. The OPP was transferred. That is the heaviest expense area.

**Mr. Lawlor:** And the centre of criminology was switched away?

**Hon. Mr. Bales:** The forensic centre?

**Mr. Lawlor:** The forensic centre, yes.

**Hon. Mr. Bales:** It was transferred to the Solicitor General.

**Mr. Callaghan:** The centre of criminology is run by the university.

**Hon. Mr. Bales:** It is a university group.

**Mr. Lawlor:** You have no moneys in here whatsoever for it?

**Mr. Callaghan:** We have never had.

**Hon. Mr. Bales:** We have money for research. We don't have moneys directly for them; no.

**Mr. Lawlor:** Didn't you give them \$15,000?

**Mr. Singer:** Did we ever get around to calling that the Ward-Smith Centre in honour of that very famous and important civil servant who had such an unqualified success?

**Hon. Mr. Bales:** No. I didn't have any say, but I would willingly name the new building for him.

**Mr. Singer:** I wish you would, because he is a man who well deserves recognition from this government.

**Mr. Martel:** A Philadelphia lawyer, so figure that out.

**Mr. Lawlor:** My point, Madam Chairman, at the moment, is that having taken seven different areas which I thought had been switched and checked them through, I came out with a figure of \$81 million, plus some hundred thousand, and it doesn't jibe with your figure. Perhaps somebody could do some arithmetic for me? I would like to see it.

**Hon. Mr. Bales:** I think I have covered most of them, but Mr. Pukacz, our general manager, may explain.

**Mr. E. K. Pukacz (General Manager):** Yes, there is also the fire marshal which was transferred and the coroners' system which is nearly—

**Mr. Lawlor:** Was that last year, though? That was the year before.

**Mr. Pukacz:** Yes, it was before April 1, 1972. And the Emergency Measures Organization.

**Mr. Lawlor:** Oh, the EMO, right? Maybe if I add them up, they might come close.

**Mr. Callaghan:** Yes, I think they would come fairly close.

**Mr. Lawlor:** In return for that you brought in about \$2,170,000, basically, I take it, being various boards?

**Hon. Mr. Bales:** That is correct, the boards and commissions.

**Mr. Lawlor:** That is my next point. I am a little disturbed, Madam Chairman, not to have received, prior to launching into these estimates, the reports of these various boards. I haven't seen a report of the Land Compensation Board. Don't they make one available?



Hon. Mr. Bales: No, they do not.

Mr. Lawlor: How are we expected to do estimates if we—

Hon. Mr. Bales: No, they have not made a report.

Mr. Lawlor: Aren't they under legislative obligation so to do?

Hon. Mr. Bales: For example, when I came to this ministry I found that this was one of the very few ministries—perhaps the only one—which do not have an annual report.

Mr. Lawlor: Yes, but that is because of its curious suzerainty. You are not even beholden to the public accounts, really.

Hon. Mr. Bales: I am sure I am.

Mr. Lawlor: Read your Act; you will see that you are not. You are in a very strange position. You are above the law—not the embodiment of it.

Hon. Mr. Bales: They are the most mundane types.

Mr. Lawlor: In any event, the board of negotiation, too; I see no report, I spoke to you in the House the other day with respect to it.

Hon. Mr. Bales: I told you I would obtain it.

Mr. Lawlor: The Law Reform Commission report?

Hon. Mr. Bales: There will be a report of the OMB coming forward and there will be one of the Law Reform Commission coming forward in due course.

Mr. Lawlor: I have a fairly recent report of the Criminal Injuries Compensation Board.

Hon. Mr. Bales: That is correct.

Mr. Lawlor: It has changed its name, I see; or maybe that is the new name.

Hon. Mr. Bales: You have only the one of a year ago.

Mr. Lawlor: That is the one I worked over. When you have reports, they are valuable to you in terms of the estimates. I would ask the minister if he can possibly let us have those reports at an early date before we launch into these estimates. They might be more efficacious than they otherwise may be.

Hon. Mr. Bales: I think perhaps what we can do—

Mr. Lawlor: I have a final question which—

Hon. Mr. Bales: May I just deal with that? They may not be statutory requirements for another year.

Mr. Lawlor: I'll check and see if they are.

Hon. Mr. Bales: Well, whether they are or whether they aren't, then I think perhaps we can arrange that they produce an informal report.

Mr. Lawlor: All right—something to give some insight into the actual workings of the board; how many cases they are handling, the disposition—because when we come to the Compensation Board hearings, I have a considerable number of questions, on the basis of reading the report, as to—

Mr. Singer: Will we have Mr. Wishart back? Because frankly I wanted to compliment Mr. Wishart on what I think has been an outstanding job that he's done. But by the same token I'd like to ask him some questions.

Mr. Lawlor: Yes, he's done some very curious things.

Mr. Singer: And he should be here, really; I think he's done a very good job.

Mr. Lawlor: Even more curious than he did as Attorney General. Acting as Charlie McCarthy, as some members of your party put it, Mr. Minister, what flights have you taken personally in the last fiscal year with your family and friends, or with your poodle? Could you give us that information? We ask this question—

Hon. Mr. Bales: If you wanted to ask the question, you have to go from my memory—it is reasonable. First of all, you would have to delete the poodle and my family, my wife and friends.

Mr. Lawlor: Not even the poodle.

Hon. Mr. Bales: Well, with friends it is a question, because I'd like to claim that some people in the ministry are my friends.

Mr. Singer: You have a poodle?

Hon. Mr. Bales: No, I used to have a cat; I don't have that now.

Mr. Lawlor: Have you taken three flights in the last year?

Hon. Mr. Bales: Yes, let's see, I've taken more than that. I've gone to—and I have to



go by memory—I've gone to Sault Ste. Marie; I've gone to Sudbury; I've gone to North Bay; I've gone to Ottawa—he says "twice"—I've gone more than that because they are always emergency or—

**Mr. E. M. Pollock** (Assistant Deputy Attorney General): Barrie.

**Hon. Mr. Bales:** Yes, I've gone to Barrie on an emergency. I went to London once on a short trip and back in the space of about four hours; and I went recently to Belleville and back in an afternoon. I think that that's probably the limit of my—

**Mr. Lawlor:** All with no family, no relatives, not even the deputy—strictly on government business?

**Hon. Mr. Bales:** I beg your pardon.

**Mr. Lawlor:** Strictly on government business?

**Hon. Mr. Bales:** Entirely on government business.

**Mr. Lawlor:** Entirely government business.

**Hon. Mr. Bales:** May I just point out, one of the things I've done—and I raise it now because some of these visits were related that way.

I have started a series of visits to the various court facilities in the province, and I'm not through by any means; give me time and I'm going to get around to—

**Mrs. Campbell:** Even to 311 Jarvis St.

**Hon. Mr. Bales:** I've been there.

**Mr. Martel:** He's been so busy.

**Hon. Mr. Bales:** Yes, all through them. Actually I've been there twice.

**Mr. Singer:** Was it because of the candidacy in the by-election of the member for St. George?

**Hon. Mr. Bales:** No, the member for St. George didn't know when I was there the first time.

**Mrs. Campbell:** Oh yes, I got a call and I was told about it.

**Hon. Mr. Bales:** Not the first time.

**Mrs. Campbell:** Oh, maybe not.

**Mr. Martel:** Did you visit the courthouse in Sudbury?

**Hon. Mr. Bales:** I did indeed.

**Mr. Martel:** I want to talk a bit later on that.

**Hon. Mr. Bales:** Go ahead.

**Mr. Martel:** I hope you are going to improve that.

**Hon. Mr. Bales:** Yes, but there are some others that have higher priority—if I may say.

**Mr. Singer:** The one in Brampton, did you like that one?

**Mr. Martel:** No, it isn't possible.

**Hon. Mr. Bales:** You weren't with us the day I visited the jails and went all through the building—and I was even locked in the jail with the prisoners in Brampton.

**Mr. Singer:** No, I was very pleased the day that we attended at the swearing in of his hon. Judge Hollingsworth. That's probably as fine a courthouse as we have in the Province of Ontario—the ones I've seen, anyway.

**Hon. Mr. Bales:** That was built by the county of Peel.

**Mr. Singer:** Yes, it is befitting the seat of the Premier.

**Hon. Mr. Bales:** Well, anyway, I've visited a substantial number and I intend to visit more of them.

**Mr. Lawlor:** I'm content on that.

**Mrs. Campbell:** There are juvenile courts.

**Mr. Lawlor:** Just in general, your ministry is severely truncated as a result of these departures. You used to pay the eminent in terms of hard cash, ranging up to \$136 million or \$137 million—then you reduced it to \$55 million; practically non-existent as far as this government is concerned.

**Hon. Mr. Bales:** But just think what it used to be like when I was in the Ministry of Labour.

**Mr. Lawlor:** Think of what an enormous punch on so little revenue you fellows really have; kind of overseeing the whole operation almost more so than the Treasurer (Mr. White), at least three days. Then you jumped. In the last actual figures on expenditures you've got \$55,225,000. You've jumped enormously; trying to make up for lost ground as far as I can see. You restore your position up in the hundred millions by almost \$10

million, since that last actual figure of \$65,220,000. Is that largely salaries?

**Hon. Mr. Bales:** About 65 per cent of the budget of the ministry goes for salaries and there were some adjustments last year and they required substantial changes.

**Mr. Lawlor:** And that means it made about a \$10 million difference.

**Hon. Mr. Bales:** No, no, there are a number of new programmes, some of which I referred to.

**Mr. Lawlor:** Yes, you referred to them.

**Hon. Mr. Bales:** But I use the other figure just to give you some impact of the salary portion of the budget.

**Mr. Lawlor:** Well, we will come back to salaries when we reach the judges. All right, I'm content to proceed with the specific estimates now, Madam Chairman.

On vote 1201:

**Madam Chairman:** Thank you, Mr. Lawlor. Starting on page J12, vote 1201, first item, Attorney General; any comments?

**Mr. Singer:** Yes, Madam Chairman, I see that we have an increase from the actual \$119,000 which was on the original estimate of \$102,000, up to \$149,000, which is about a 50 per cent increase. Could the Attorney General explain to us why the estimates increased 50 per cent?

**Hon. Mr. Bales:** It has increased what?

**Mr. Singer:** Fifty per cent. You budgeted for \$102,000 a year ago and you spent \$119,000; you are now up to \$149,000.

**Hon. Mr. Bales:** No, 1971 and 1972; I only came at the beginning of 1972.

**Mr. Singer:** I am sorry, I was one year too far out. You went from \$102,000 estimated, to \$119,000 spent, to \$149,000; now you are \$189,000—so you've gone a hundred and—

**An hon. member:** It is \$140,000.

**Mr. Singer:** Yes. Well from the 1971-1972 estimates to the 1973-1974 estimates you are—

**Hon. Mr. Bales:** We've gone up by \$40,000.

**Mr. Singer:** That is \$80,000 or \$90,000—a 90 per cent increase.

**Hon. Mr. Bales:** 40 per cent.

**Mr. Lawlor:** Let's compromise on 60 per cent.

**Mr. Singer:** From the 1971-1972 estimates of \$100,000 you've gone to \$189,000, eh?

**Hon. Mr. Bales:** No, I object. I began my ministry one month before the 1972 fiscal year began.

**Mr. Singer:** Whether you began it or not, the continuing estimate of the Attorney General of the day for 1971-1972 was \$102,000. You are now asking from 1971-1972 to 1973-1974, which is a two-year lapse, an increase of about 90 per cent in a two-year period. Now could you tell us why?

**Hon. Mr. Bales:** The main thing is that I believe that there should be better information out of my ministry. There has never been an information officer within my ministry—I haven't one yet—but I believe that one should be established; and that is one of the major items.

The other is the increase in the salaries, the adjustments in that area. I don't think my staff is any bigger than it was under Mr. Lawrence or Mr. Wishart, really in comparison, but salaries certainly have changed and rightly so.

There is a number of other things, I suppose, small things. I have established an office at King St., where the main ministry is, and I use it most of the time. Of course I do also have offices, as you know, Mr. Singer, and as the others know, here at Queen's Park; which I think I should have. There may be some additional costs because of that, but I think it important that the AG be in close association with those who are on the staff.

Those are the two major items. The information office is the main thing. That will require an information officer and it will require a secretary.

**Mr. Singer:** How much of the increase from \$102,000 in 1971-1972 to \$189,600 does that represent?

**Hon. Mr. Bales:** I would need some assistance in that because it wasn't included in the \$102,000 to \$149,000. Part of it was in the \$149,000 and there is more of it in \$189,000.

**Mr. Singer:** To what extent did you live within the \$149,000 which was your estimate

last year? Were you at that, lower than that, or higher than that?

**Hon. Mr. Bales:** We were lower, I understand. Emil, have you got that figure?

**Mr. Pukacz:** Yes, as far as the forecast is concerned for 1972-1973 it will be about \$145,000.

**Hon. Mr. Bales:** It is underneath slightly.

**Mr. Singer:** So you were \$4,000 less. Okay. So you've gone from an actual expenditure of \$145,000 to an estimated expenditure of \$189,600. Could you delineate for us the basis on which you've got an increase of \$44,600?

**Mrs. Campbell:** And you have lost some of your functions.

**Hon. Mr. Bales:** I see under estimated salaries, \$110,300; employee benefits \$7,200; transportation and communications, \$11,000; services, \$40,000—and that's where that other information group goes in—supplies and equipment is \$21,100 to total \$189,600.

**Mr. Singer:** Mr. Minister, while I can hear what you're saying and I'm sure that your addition is more accurate than my mental arithmetic, could you tell us which figures have accelerated to the point of adding \$44,000?

**Hon. Mr. Bales:** Salaries have gone up from \$82,500 to \$110,300. Employee benefits have gone up—

**Mr. Singer:** Can I stop you at salaries? From \$82,500 to \$110,300—

**Hon. Mr. Bales:** That's \$28,000.

**Mr. Singer:** —which is \$28,000. What has that included?

**Hon. Mr. Bales:** That includes those salaries within my office and includes changes. I think you'd actually find in the forecast for 1972-1973 that the actual expenditure, Emil, is above the \$82,500, because it didn't include the adjustments—

**Mr. Pukacz:** Salary revisions.

**Hon. Mr. Bales:** It didn't include the salary revisions as anticipated.

**Mr. Singer:** Did you hire a number of new people, or did the normal attrition increase your salaries by 25 per cent?

**Hon. Mr. Bales:** No.

**Mrs. Campbell:** Attrition? There is no attrition in this budget.

**Hon. Mr. Bales:** I haven't had additions really.

**Mr. Singer:** Pardon?

**Hon. Mr. Bales:** I haven't had additions.

**Mr. Singer:** Then why did your salaries go up 25 per cent?

**Hon. Mr. Bales:** They were really above that \$82,500 because of salary adjustments.

**Mr. Pukacz:** Vacancies.

**Hon. Mr. Bales:** And there were certain vacancies in there and they could be them.

**Mr. Singer:** Could you delineate for me the \$28,000 or 25 per cent increase in salaries?

**Hon. Mr. Bales:** We can provide it here. If you'd like to know the actual staff I have I'd be glad to—

**Mr. Singer:** No, I'd like to know the difference between \$82,000 and \$110,300—a \$28,000 increase—and how it came about.

**Hon. Mr. Bales:** Emil, have you got the actual—

**Mr. Pukacz:** Yes, it is \$12,000 in salary revisions.

**Hon. Mr. Bales:** Of that.

**Mr. Pukacz:** Of that. Then we have—

**Mr. Singer:** For how many people?

**Mr. Pukacz:** I beg your pardon?

**Mr. Singer:** For how many people?

**Mr. Pukacz:** Eight people.

**Mrs. Campbell:** Eight?

**Mr. Singer:** Eight people?

**Mr. Pukacz:** Eight people, yes. There was another thing which forced us to increase the salaries, because the minister was the only minister who had an executive assistant at the level of clerk 5. So he was promoted to the level of executive officer 1.

**Mr. Singer:** Which changed his salary from what to what?

**Mr. Pukacz:** Which changed his salary about \$3,000.



**Mr. Singer:** Oh. How does that kind of consideration get arrived at? Who determines that? The minister solely?

**Mr. Pukacz:** Not necessarily. The minister and the personnel management branch. The man has a university degree. He has to have a year or two experience and after that experience he's coming slowly to the proper classification, which is executive officer 3.

**Mr. Singer:** Is there a schedule of that kind of acceleration throughout the whole of the civil service? Or is there an arbitrary determination by some official from the Attorney General's department?

**Mr. Pukacz:** No, it is dependent upon the experience of the man and the way he's carrying his duties. The proper classification for the minister's executive assistant is executive officer 3, which goes up to \$22,000.

**Mr. Singer:** But who made the real determination as to the fact that he should jump from his lower category to the higher category? Was that done within the ministry or within the Civil Service Commission?

**Mr. Pukacz:** Now it is within the ministry, because this was delegated from the Civil Service Commission.

**Mr. Singer:** I see. So is it reasonable to suggest that if the minister or the ministry determines that an executive assistant deserves that kind of a salary increment, the ministry by itself can determine it?

**Mr. Pukacz:** No, it depends upon the qualifications of the person and his experience. It doesn't go automatically.

**Hon. Mr. Bales:** If it goes beyond a certain figure it must go to the Management Board for approval.

**Mr. Singer:** But it is a determination basically within the ministry?

**Mr. Pukacz:** No, if it is a salary above \$15,000 it requires the approval of the Management Board.

**Mr. Singer:** I see. How does the Management Board indicate its approval? Is there an order in council?

**Mr. Pukacz:** No, it's the minute of Management Board.

**Mr. Singer:** The minute of the Management Board. Within your experience, Mr. Pukacz, has any application to Management Board for this kind of approval ever been turned down?

**Hon. Mr. Bales:** Within my experience as a member of Management Board, yes.

**Mr. Pukacz:** Not in our ministry.

**Mr. Singer:** Not in your ministry?

**Mr. Pukacz:** Because the executive assistant is not at the level of \$15,000 yet.

**Mr. Singer:** I see. But presently he is now going to get, this year or the—

**Mr. Pukacz:** No, no. He's at the level of executive officer 1 which is, I think, between \$11,000 and \$13,000. He's at the lowest—

**Mr. Singer:** What?

**Mr. Pukacz:** Between \$11,000 and \$13,000.

**Mr. Singer:** Oh, I see. Is he a civil servant?

**Mr. Pukacz:** No, most of the minister's executive assistants are outside of the civil service on contract.

**Mr. Singer:** Oh, I see. So he is hired at pleasure—

**Mr. Pukacz:** Of the minister.

**Mr. Singer:** The pleasure of the minister?

**Hon. Mr. Bales:** He's not hired at pleasure, he's hired on a yearly basis.

**Mr. Singer:** Pardon?

**Hon. Mr. Bales:** A yearly basis.

**Mr. Pukacz:** A yearly basis.

**Mr. Singer:** Does he have a contract?

**Mr. Pukacz:** Yes, it is an annual contract.

**Mr. Singer:** And he could be increased, theoretically, from today to tomorrow?

**Mr. Pukacz:** No, he has to go through the normal progression, which provides for one accelerated increase within the whole classification, unless he is reclassified to the following group.

**Mr. Singer:** But if he's not a civil servant why do those normal progressions apply to him?

**Mr. Pukacz:** Because we apply them in the same way to contract civil servants as we apply them to the regular civil servant.

**Mr. Singer:** But it's a matter of discretion, it's not a matter of regulation? You could vary from that if you wanted to?

Mr. Pukacz: But we don't do it.

Mr. Lawlor: It's within the terms of the contract.

Mr. Pukacz: Yes, it is within the terms of the contract.

Mrs. Campbell: Could I ask, Madam Chairman, of the \$110,300 what is the estimated unproductive time involved in that?

Hon. Mr. Bales: I beg your pardon?

Mrs. Campbell: The estimated unproductive time.

Hon. Mr. Bales: What do you mean by that?

Mrs. Campbell: I'm talking about vacation. I'm talking about sick leave. I'm talking about unproductive time in your department.

Hon. Mr. Bales: The unproductive time is the same as for the civil service.

Mrs. Campbell: I'm asking the proportion of the \$110,300 that would be deemed unproductive time.

Mr. Pukacz: I wouldn't think there is any unproductive time, because as far as I know, I know the minister's office and his executive assistants, his secretaries, you will very often find them working Saturdays and Sundays and they don't claim any overtime.

Hon. Mr. Bales: What Mrs. Campbell is saying is, what percentage of the year's salary relates to holidays?

Mrs. Campbell: Holidays or downtime when they are not at their desks, not working. It's customary in budgets to look at that figure without—

Mr. Pukacz: Yes, we have 261 working days in the year.

Hon. Mr. Bales: You have also, I would hope, to look at the number of hours some of my staff are on duty after 5 and on the weekends.

Mrs. Campbell: Madam Chairman, I'm not speaking in a derogatory fashion of any one in the department, but I am interested to know in a salary budget of \$110,300 how much is unproductive? It's important to know as you review budgets from year to year and as you review salaries and benefits and the rest of it. Surely I can get that figure from somebody.

Hon. Mr. Bales: Mr. Pukacz, has given it to you and that is—

Mrs. Campbell: He has given it to me, but not in dollars, which is what I am asking for. Does he have the figure in dollars?

Hon. Mr. Bales: He gave it to you in days.

Mrs. Campbell: Well then, what is their per diem rate?

Mr. Pukacz: As far as civil servants are concerned, they are paid for 261 days in the year. Out of that they are allowed up to 15 days' sick leave which they normally don't use. For up to 15 years of service they are allowed three weeks' vacation; in excess of 15 years of service, four weeks' vacation.

Mrs. Campbell: Could I know what you are setting as their per diem rate? I want it in dollars and surely that is available to us if you had someone who has prepared this budget.

Mr. Pukacz: On which classification are you considering the daily rate? Each classification has different daily rates.

Mrs. Campbell: That's why I'm having trouble, Madam Chairman, in getting an answer. Out of \$110,300 I would like to know in dollars how much unproductive time there is, because I think it's important for us to know. And if you haven't the answer perhaps you could get it. Is that the answer—that you don't have it?

Hon. Mr. Bales: I think you are asking a question across the board when it is different for each different type of person.

Mrs. Campbell: Very well, then. Could that be something that I can get before the end of this estimate?

Hon. Mr. Bales: Well—

Mrs. Campbell: You have eight people.

Hon. Mr. Bales: That's correct. Eight of a complement. I would rather think of it as the unproductive time, Mrs. Campbell.

Mrs. Campbell: Well, if you consider holidays productive that is great, but I don't—

Hon. Mr. Bales: I think of the time that they spend and the hours they work.

Mr. Eaton: Vacations are very much productive. They come back recharged.

Mr. Martel: Mr. Minister, have you got anyone on your staff at all who comes in on

a part-time contract basis? Anywhere within your staff?

**Hon. Mr. Bales:** No. I have people on a contract basis, yes, but they are full time. In the summertime, I hope and I expect I shall have a student working in my office. Last year I had a student.

**Mr. Martel:** Because it is coming up more and more. In the last week and a half I received a number of complaints from a number of different ministries related to people on a part-time basis who don't get any type of benefits. This has come from Natural Resources, the Environment, secretaries—

**Hon. Mr. Bales:** I don't have that.

**Mr. Martel:** It really bothers me that a government would allow that. It seems to me to be discriminatory to have someone work on a part-time basis for eight, 10 or 12 years and never get through a permanent posting. Ultimately some of them I know around Natural Resources, are around for 25 years and end up without a pension or anything. It has got to be resolved.

**Hon. Mr. Bales:** I don't have any of that.

**Mr. Martel:** You don't have any. I intend to ask just about every minister as I go along because it seems to be an unfair situation.

**Madam Chairman:** Mr. Renwick.

**Mr. J. A. Renwick (Riverdale):** Mr. Minister, on the assumption by you of the responsibility for all of the lawyers in the ministries of the government, where is that reflected in these estimates?

**Hon. Mr. Bales:** It is in the legal services vote, not in this one.

**Mr. Renwick:** Which is later on in the vote?

**Hon. Mr. Bales:** That is right.

**Madam Chairman:** Mr. Lawlor.

**Mr. Lawlor:** You have a double reversal in here I find kind of curious. In the 1972-1973 estimates, under the item on services, you had the sum of \$8,000. Now it's jumping to \$40,000; whereas in the next item, supplies and equipment, in the previous year you had \$37,600 which has been reduced to \$21,100. How is that?

**Hon. Mr. Bales:** I haven't got those exact figures unless you can direct me to a certain page.

**Mr. Lawlor:** Well, I have written them in.

**Hon. Mr. Bales:** I see. All right. Over here.

**Mr. Lawlor:** From the previous estimates book.

**Hon. Mr. Bales:** Oh I see, yes.

**Mr. Lawlor:** The figures are not before us unless you use the other book.

**Hon. Mr. Bales:** Well, the substantial increase is the information officer under services.

**Mr. Lawlor:** I see. Information officer—

**Hon. Mr. Bales:** Supplies and equipment: we need to have less than we had before, we're in the age of economy. Transportation and communications is dropped, as you see, from \$14,000 to \$11,000. And benefits have gone up as they should, \$6,700 to \$7,200 related to—

**Mr. Lawlor:** It's a tremendous drop in equipment, though.

**Hon. Mr. Bales:** Well, I did establish, as I said before, an office down on King St. Nobody had had one there before I did.

**Mr. Singer:** Was there never an office down on King St.?

**Hon. Mr. Bales:** There was space but there was no office.

**Mr. Lawlor:** So that it went up in that particular year and now it has come back to somewhat less?

**Mr. Singer:** I know when the secretary took over that corner suite there.

**Hon. Mr. Bales:** Well, I have an office on the ground floor.

**Mr. Singer:** Yes, I do. Not nearly as elaborate as the one upstairs.

**Hon. Mr. Bales:** No, but adequate.

**Mr. Singer:** Nice up there.

**Mr. Callaghan:** We are very modest.

**Mr. Renwick:** Mr. Minister, has the Ministry of Government Services as yet charged your ministry with rent for the space which you occupy?



**Hon. Mr. Bales:** It is not in our estimates. That turns up in the Government Services estimate. That is being developed on a basis of rent charged in, and so on, as we will charge in, in future, so much for legal services in the various ministries in another year.

**Mr. Renwick:** But I take it that in order to make a proper assessment of the programme under 1201 or the various other programmes of the ministry, insofar as any relation of cost to benefit is concerned, that the thrust of that report was that the Ministry of Government Services charge your department rent. This would appear as a costing element in your programmes as well as a revenue receipt in the hands of Government Services? I take it that that is the way it would operate?

**Hon. Mr. Bales:** It will.

**Mr. Renwick:** Has any progress been made in that development?

**Hon. Mr. Bales:** Yes. I heard the question. Yes, progress has been made when I was on Management Board. The system was worked out and it really is in the Government Services at the moment but there will be compensating figures in the various ministries.

**Mr. Renwick:** Mr. Minister, could I ask the extent to which you as the Attorney General have responsibility for a number of appointments throughout the administration of justice system in the province. To what extent do you consult with the members of the Legislature sitting for the government party?

**Hon. Mr. Bales:** What do you mean by appointment?

**Mr. Renwick:** Well, I'm thinking of the registrar of deeds, for example, or—

**Hon. Mr. Bales:** That, of course, has been transferred out of my area.

**Mr. Renwick:** Out of your hands. Well, what about, say, the appointment of sheriffs?

**Hon. Mr. Bales:** Sheriffs. Most of the appointments in the sheriff's office are civil servants today. The sheriff himself is an appointment of the government. Normally I generally consult people in the area. For example an appointment was made in the Sudbury area. I generally consulted up there. I don't think I went to Mr. Martel

directly. I made some soundings in the area quite apart from it. As a matter of fact, Mr. Sopha wrote to me recommending a certain person who was appointed. I receive recommendations from a number of people for a number of appointments, and frankly I endeavour to look at all of them.

**Mr. Renwick:** And do you generally consult with the sitting member from the particular area?

**Hon. Mr. Bales:** No. Not necessarily.

**Mr. Renwick:** Not necessarily?

**Hon. Mr. Bales:** Not necessarily, no. I do try to advise them when the appointment is made if it is of direct interest to them.

**Mr. Singer:** I can recall when I was in the House just a couple of years with the late Harry Nixon, he got up and catalogued a series of his defeated Conservative candidates, almost every one of which he could put into a position as sheriff or clerk of the surrogate court or registry of deeds or something. Those kinds of criteria that Harry adverted to are no longer the criteria?

**Hon. Mr. Bales:** Were you suggesting that you were in the House when the late Harry Nixon was?

**Mr. Singer:** Yes, I was.

**Hon. Mr. Bales:** You may have been physically, but Mr. Singer—

**Mr. Singer:** Oh no, not only physically, but alertly and in a most contributive fashion.

**Hon. Mr. Bales:** Oh yes, I know, but not you.

**Mr. Singer:** No, Harry Nixon. Yes, I think he catalogued 14 defeated Tory candidates—each one of whom had happened to have achieved a position of emolument of the Crown; has that kind of practice since ceased?

**Hon. Mr. Bales:** I think by and large—

**Mr. Singer:** Yes, I can get that speech for you if you want.

**Hon. Mr. Bales:** Well, I wasn't here when Mr. Nixon was a member of the House—or the Premier for that very short space of time.

**Mr. Singer:** Yes, but he had 14 defeated Tory candidates he was able to catalogue, all of whom received good positions as government—

Hon. Mr. Bales: I like to think that the people that are appointed are appointed because of their abilities.

Mr. Singer: I see.

Mr. Martel: Even after the public rejects them as candidates.

Hon. Mr. Bales: A person might be rejected from one political office, but that doesn't mean they don't have ability; and I can think of some who have ability and serve very well.

Mr. Martel: Have you ever looked at the courthouse in Sudbury to see the appointments?

Hon. Mr. Bales: I went to the courthouse in Sudbury and I spent about four hours there. I then went down to the building, the religious, I've forgotten—it has been converted to a family court.

Mr. Singer: I will get you that speech of Harry Nixon's; it was about 1960 or 1961.

Mr. Martel: It is just interesting that about half of them are defeated Conservative candidates and the other half are formal Liberals.

Hon. Mr. Bales: Well, I'm sorry—

Mr. Martel: From the federal level.

Mr. Singer: All defeated Tories.

Hon. Mr. Bales: I don't want this to get out of line, but when I go around to a court office—

Mr. Martel: Some of them are very good.

Mr. Singer: More Tories than anybody else.

Hon. Mr. Bales: Just a minute. I'm really not interested in Sudbury, or in any other place, as to what political party that person might have belonged to at some earlier time. I'm interested in what kind of a job they are doing today as part of my ministry.

Madam Chairman: Now we are on item 1; Mr. Lawlor wanted to speak.

Mr. Lawlor: Just a brief word. I don't suppose its refurbishing, because there isn't yet that opportunity, but as to the refurbishing of your public image, you are apparently going to hire yourself an impresario to go before you strewing confetti. What's the purpose in this information officer whom you have been able to get along—do you not feel that you are feeding sufficient—

Hon. Mr. Bales: Not long after I came to the ministry I met the Crown attorneys, and they have a real problem; at least in my view they have. When I talk about an information officer, it is not my personal information officer—it's information from the ministry.

Those men—and in my statement today I referred to about 140 of them—are located in various places throughout the province. There are a number of decisions that come up in the courts here in Toronto and other places. They may not know of those decisions and I think that there should be a better information system so that they are kept up to date.

One of the Crown attorneys in the York office put out a mimeographed report for them, on his own, with some assistance within the ministry; and that was good. But I think it must be much better.

Pat LeSage, who is now a director of Crown attorneys in the province, has been spending a good deal of his time since his appointment travelling in various places throughout the province to the Crown attorneys to bring their system up to date, to bring greater uniformity, to bring a greater information system to it, and so on. This is the kind of thing I'm talking about.

I'm hopeful that provincial judges, for example through their provincial judges association, might have a better communications system.

I'll be interested to know Mrs. Campbell's views, for example, in reference to the family court. In my view they should have a better information system than we have today. That's the kind of information I'm talking about, not something personal for me.

Mr. Lawlor: Mr. Patrick LeSage wouldn't be able to do that job himself.

Hon. Mr. Bales: No, Mr. LeSage has great expertise in the legal field, but he can't be all places in the province all at one time. I think we have to have some regular communication with them. This is one of the things that the Crown attorneys—

Mr. Singer: No, this is a very interesting thing; what do they communicate?

Hon. Mr. Bales: This is the Crown attorneys.

Mr. Singer: You get a \$12,000-a-year personal assistant who is able to reasonably digest an important decision made by a provincial judge or county court judge, or the

Supreme Court, or the Court of Appeal. What does he communicate then? I could understand a gentleman with the experience of Mr. LeSage—

**Hon. Mr. Bales:** He is not my personal assistant.

**Mr. Singer:** —could shift between important decisions that should be communicated to other Crown attorneys or other provincial judges. But what would an information officer of \$11,000 or \$12,000—who presumably has at best a minimal legal education, if any—what kind of analysis is he going to be able to do of important decisions which should affect the future considerations of these Crown attorneys?

**Hon. Mr. Bales:** You know, Mr. Singer, you were a great reeve of North York.

**Mr. Singer:** Yes.

**Hon. Mr. Bales:** But there was one thing; sometimes you didn't know when to stop talking.

**Mr. Singer:** Well, quite apart from that, could you tell me—all right, if you want to draw an issue then let's draw it.

**Hon. Mr. Bales:** No—

**Mr. Singer:** Could you tell me how an \$11,000-a-year personal assistant is going to analyse a decision of importance made, either on the provincial court judge level, or on the county court level, or the court of appeal level, or the Supreme Court level, or the Supreme Court of Canada, that is going to be of influence? How can he do that without the adequate kind of legal training that is available?

**Hon. Mr. Bales:** Mr. Singer, I hope I didn't offend you—

**Mr. Singer:** Oh, you did!

**Hon. Mr. Bales:** I have a very high regard for you, and as you well know I worked for you when you were reeve. But nevertheless—

**Mrs. Campbell:** Baring your souls at this table.

**Hon. Mr. Bales:** —it is not a personal assistant to me, it is an information officer and you must have a communications person. Just like someone who writes the weekly reports, he must take from the decision the essence of the legal decision, and then an information officer will communicate from

there on. It's not a person helping me with the day-to-day work at all.

That person, particularly in the Attorney General's office, must have the expertise; but lawyers are not always the best communicators. They are expert in the field of what is the law and what is the proper interpretation of the law. But then I think you need somebody else to put it out in the best communication's system.

In the Ministry of the Attorney General we have about 3,000 people, located in about 450 offices in the province. Now not all of them need to know all of the information about everything. But many of those people, working as they are in their individual offices, need to know much more of what is going on from this ministry; by way of legislation that we are putting out, by way of directives, by way of perhaps the more recent decisions, and so on; and appointments, if you will, to the different offices and so on. That's the kind of information I think they need so that they can do a better job.

**Mr. Singer:** All right then, could you explain to me, Mr. Minister, the educational qualifications of this \$11,000 to \$12,000 PR man that you have.

**Hon. Mr. Bales:** I don't have one.

**Mr. Singer:** You don't have one? Oh, this is one that you are going to get.

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** They put the money in but they haven't got it yet.

**Mr. Singer:** This is going to be a very interesting man who is going to be able to pick up the weekly notes and signify to all the Crown attorneys across Ontario—

**Mrs. Campbell:** Are you sure it is going to be a man?

**Mr. Eaton:** Might be a woman.

**Mrs. Campbell:** You might have an exception in this department.

**Mr. Singer:** I'd be very interested to see what you are going to get.

**Hon. Mr. Bales:** No, I didn't say it was going to be that.

**Mr. Singer:** Isn't that what you told us, \$11,000 to \$12,000?



**Hon. Mr. Bales:** No, but Mr. Pukacz told you that my executive assistant is paid in that—

**Mr. Singer:** Oh, well, what's this information officer going to get?

**Hon. Mr. Bales:** It will have to be approved, but I think it will have to be about \$16,000.

**Mr. Singer:** You anticipate that this will be a graduate lawyer, perhaps?

**Hon. Mr. Bales:** No.

**Mr. Singer:** A BA?

**Hon. Mr. Bales:** Well, he might be a BA.

**Mr. Singer:** An MA?

**Hon. Mr. Bales:** No!

**Mr. Singer:** No! Someone with legal training, or without legal training?

**Hon. Mr. Bales:** I wouldn't think you would have an information officer necessarily with legal training.

**Mr. Singer:** No! This is going to be very fascinating to watch the analysis of the weekly notes that you are going to get from a non-legal BA.

**Madam Chairman:** Mrs. Campbell.

**Mrs. Campbell:** Madam Chairman, my comments are in view of the fact that the Attorney General said that he'd like to hear my opinion.

Had I remained in the court my job would have been to chair the committee which would have been trying on its bended knees to prevail upon your deputy to let us have some law books. I wonder whether this is coming out of the law book section? Because, with the greatest respect, I think the judges could quite capably, if they had the books, read the law; and they wouldn't require to have somebody digest it for them. But we were not allowed to get books for our law library.

I would think perhaps the judges might prefer to have the books and not have this additional salary, which cuts into it. Particularly, Madam Chairman, when the family court is adding jurisdiction all the time. I believe we added the state of Texas, last year—I'm not sure what else we added to our jurisdiction on reciprocals—and couldn't get the books that were needed so that we'd be able to come up with some kind of sensible

sort of decisions with reference to the laws of those reciprocating states.

Now, I would think, quite candidly, if you talk to your judges—and I would hope you would before you do this—they would prefer themselves to have the books in the library and not have some information officer tell what he thinks the present law is.

**Hon. Mr. Bales:** They are two different things, Mrs. Campbell.

**Mrs. Campbell:** But you were saying that he was going to—you were talking about the Ontario weekly notes or the Ontario reports.

**Hon. Mr. Bales:** No, no I didn't say that.

**Mrs. Campbell:** You did, with the greatest respect; that was what you did say.

**Madam Chairman:** We are on item 1, which is the office of the Attorney General.

**Mrs. Campbell:** Yes, but this is an information officer in that particular item 1, is it not?

**Hon. Mr. Bales:** Right!

**Mrs. Campbell:** And could I know where the salary is? I'll raise the question of libraries again. It does seem to me that when we are talking about his telling us what the recent decisions are, if we got the books we could do it ourselves—at least the judges could. Pardon me, I'm speaking in the present tense; I shouldn't be. But it was one of the sorest points that we couldn't get the tools that were needed.

**Mr. Callaghan:** Mrs. Campbell, if I can assist on that question, this is the first time that I've heard that you have not had adequate books. If the family court judges require books, they will get books. Books are one thing that we can supply. We've all sorts of them.

The information officer really isn't to supply legal opinion, he's to supply information as to what's transpiring in the ministry that will be of great assistance to those courts. Not only the courts, but we have registrars and clerks and Crown attorneys, and we have a vast number of people—

**Mrs. Campbell:** What type of registrars are we talking about?

**Mr. Callaghan:** We are talking about surrogate court registrars, county court registrars. I am talking about Supreme Court registrars, county court clerks. These are

people who don't know what goes on in the ministry and it is our hope that through an information service we can get to them and indicate to them generally what's going on and what affects them. It won't all be law.

A lot of it will relate to things that happen in the public service—salaries; re-classifications; how they go about these things; what new classifications have been established; what job futures are available for them. These are all things they don't hear about which we are trying to get out to them.

The actual legal matters aren't going to be communicated by an information officer. They will have to be communicated by a professional.

**Mrs. Campbell:** Perhaps you and your minister should get together because he certainly, definitely, said—

**Mr. Callaghan:** As far as the lack of books is concerned—

**Mrs. Campbell:** Oh, you were aware of that?

**Mr. Callaghan:** No, with respect, I wasn't. Your court has never complained to me about books. The only court that ever complained to me about books was the Supreme Court with the greatest respect. I've never yet refused any request for books.

**Mrs. Campbell:** Madam Chairman, the deputy was not at a meeting at 311 Jarvis St.?

**Mr. Callaghan:** No, I wasn't. If there was a complaint about books there, it was never communicated to me. With great respect, if they have that complaint, they should get it to me because there is one thing that I agree with—that a judge should have his books. I don't know if they use them—they may not—but I want to make sure that they get them.

**Mrs. Campbell:** They most assuredly use them if they have them and they haven't been able to get them at 311 Jarvis St.

**Mr. Callaghan:** The Chief Justice has never requested them, nor has the senior judge in the county of York ever requested one single book from the ministry.

**Madam Chairman:** Mr. Minister, Mr. Deputy Minister, we have been on item 1 and everybody has spoken to this at least several times.

**Mr. Lawlor:** I have four different questions on that, Madam Chairman.

**Madam Chairman:** You have already raised three different questions.

**Mr. Lawlor:** I would hope that what the deputy minister says is not correct. I mean there are myriads of unreported decisions of some significance and I would hope that they would be communicated from Crown attorney to Crown attorney.

**Mr. Callaghan:** If I may comment on that, as far as unreported decisions are concerned, they are being communicated to all the Crown attorneys by Mr. LeSage and by Mr. Manning, who is a competent counsel in the ministry.

We have a system working with every jurisdiction in this country for all unreported criminal law decisions. We exchange ours with theirs; theirs come in and they get disseminated to the Crown attorneys. This is not the function of the information officer. We don't expect him to communicate professional legal advice to Crown attorneys. That's something that is done by the director of Crown attorneys and some of it is done by me.

**Mr. Lawlor:** When these decisions are communicated, is cognizance taken of the sentences passed so that uniformity of sentences throughout this province is somehow looked into?

**Mr. Callaghan:** With respect, sir, uniformity of sentences is a hooker that neither I nor the Chief Justice nor God can tell you how we are going to work it out.

**Mr. Lawlor:** At least, it would be interesting to know in a particular context as to what a particular judge did.

**Mr. Callaghan:** The sentence will go out to the Crown attorney but a study of uniformity of sentences is a different matter.

**Mr. Singer:** Is this kind of summary or information available centrally?

**Madam Chairman:** Excuse me, the member for Lakeshore has the floor.

**Mr. Lawlor:** Thank you, Madam Chairman. Cut the member off sometimes!

**Mr. Singer:** I'm just following the discussion—I am sure the member for Lakeshore would appreciate that.

**Mr. Lawlor:** Are you going after uniformity of sentence?

**Mr. Callaghan:** The information is available in our ministry. Basically, the system is provided for Crown attorneys across the province. It is not provided to the public at large, but nobody has every asked for it before.

**Mr. Singer:** Could I make a request that perhaps you could file it in the legislative library?

**Mr. Lawlor:** That was precisely my next question.

**Mr. Callaghan:** I really see no objection to that. Yes, we could certainly file it. What we have is all the unreported decisions coming in from across the country. We have one lawyer who is annotating them and doing very brief headnotes with comments. They are disseminated among the Crown attorneys, the law officers and the Crown law office. There is no reason that book cannot go into the legislative library, for what it is worth. It is nothing more than a—

**Mr. Singer:** It is not definitive but at least it is a start.

**Mr. Callaghan:** We would be pleased to put it there if it would be of help to anybody.

**Mr. Lawlor:** I don't particularly want it to go into the legislative library. I don't care if it does. That's fine. What I would like, like Abou Ben Adhem (may his tribe increase), is for you to write me down as one who would be pleased to see all this information from Mr. LeSage. When you institute your information officer, put me on the list of the damned or of the saved or whatever it is.

**Mr. Callaghan:** We would have to increase the allotment for the information officer if you wanted that!

**Mr. Lawlor:** Of course, but the critics of this ministry would be pleased to know all these things.

**Mrs. Campbell:** And you will be adding the family court, I take it, to that list? It won't be confined to the criminal division?

**Mr. Callaghan:** Yes, there is no reason why they couldn't have it if they are interested. This is the first time it's come up.

**Madam Chairman:** Does that clear the stage for the member for Lakeshore?

Does the member for Sudbury East have a point?

**Mr. Martel:** Just one point—I am not sure I am bringing it up in the right place.

**Madam Chairman:** We are on item 1.

**Mr. Martel:** It's about the Crown attorneys. I want to ask the minister, does he believe a Crown attorney should act on one day as Crown attorney and on the next day in the opposite capacity?

**Hon. Mr. Bales:** Most of them are full-time Crown attorneys or full-time assistant Crown attorneys. I referred today to 140 of them.

From time to time, particularly when the assizes are on, the Crown attorney needs a part-time assistant Crown attorney or he needs some additional help. We really can't afford to employ the maximum number, or the number of full-time or assistant Crown attorneys that can deal with the maximum workload. From time to time during the year, they do need to call upon outside people but the basic work is done by the full-time people.

**Mr. Martel:** I am talking about someone who is a full-time Crown attorney. On a certain given day he comes in as a—

**Madam Chairman:** This should come under item 1204 because that is where you can have a discussion about the role of the Crown attorney.

**Hon. Mr. Bales:** If Madam Chairman will let me, I will answer you, but it is up to her.

**Madam Chairman:** Go ahead.

**Hon. Mr. Bales:** As far as I am aware, he does not act as a full-time Crown attorney one day—he is paid a salary—and the next day act in a private capacity. If he does do that, I would be appreciative if you would advise me and I will certainly advise Mr. LeSage.

**Mr. Martel:** I'll check this.

**Hon. Mr. Bales:** The part-time assistant Crown attorney may well carry on and certainly does carry on a private practice as well as doing his part-time work when he is called upon by the Crown attorney to do so.

**Mr. Martel:** Do you have a full-time Crown attorney in Espanola?

**Hon. Mr. Bales:** Mr. LeSage will come around. Come on up.



**Madam Chairman:** Why don't you go into this under item 1204?

**Hon. Mr. Bales:** Madam Chairman has asked that we go into this under vote 1204.

**Mr. Martel:** All right, fine. I didn't know whether you wanted to bring it up now.

**Hon. Mr. Bales:** We will get you the information.

**Madam Chairman:** Is there anything further under item 1 that you want to raise?

Item 1 agreed to.

Item 2, deputy Attorney General.

**Mr. Lawlor:** There is a magnificent increase there, jumping from \$82,000 in the estimates of last year to \$150,000. Could we have some explanation of that?

**Mr. Callaghan:** If I may, we have re-organized the ministry, Mr. Lawlor, in many ways. One of the ways was that we established the position of director of Crown attorneys. The former director for Crown attorneys, or the man responsible for the Crown attorneys system, has remained in the ministry as a special adviser in criminal law to the Attorney General and myself. He is Mr. W. C. Bowman. He formerly had the status of an assistant deputy minister; he certainly in our eyes has that status but he is holding down the position of special adviser.

His position and salary and secretarial help are included in the vote. They account largely for the increase over the budget and the forecast together with the salary revisions. That is primarily the reason for it. His salary and secretarial assistance appeared prior to this budget in the budget for Crown legal services. That position is occupied now by the director of Crown attorneys under the Crown legal services, criminal. The former director is now on the ministry staff as a special adviser in criminal law.

**Mr. Lawlor:** He doesn't appear in court then?

**Mr. Callaghan:** He doesn't appear in court; he advises us with his vast experience—he has over 43 years in the ministry. I think you are well aware of his vast experience.

**Mr. Singer:** Who is that?

**Mr. Callaghan:** Mr. Bowman, Bill Bowman.

**Mr. Singer:** Oh, I thought it was Mr. LeSage.

**Mr. Callaghan:** No, Mr. LeSage is the current director. The former director is Mr. Bowman, who is now on the ministerial staff as a special adviser advising the minister and myself on criminal matters. His salary appears in this vote which causes the increase in that.

**Mr. Lawlor:** One other question on this vote, I really didn't get an answer from the Attorney General or from yourself with respect to certain remarks I made in my opening statement as to the codification of the law. Are you really working in that area, say in court law or contract law?

**Mr. Callaghan:** If you are asking me, sir, whether or not we are sitting down with a team of researchers to devise a restatement of the law of tort or a restatement of the law of contract or a restatement of the law of property, the answer is no.

**Mr. Lawlor:** Why not?

**Mr. Callaghan:** There are probably many reasons for that. With our financial resources, our personnel limitations, and the problems that we face in other areas, the government has set different priorities for us.

**Mr. Lawlor:** Wouldn't you think it would be a good idea?

**Mr. Callaghan:** It would be a very good idea if we had the requisite finances and resources. If we had the requisite resources and finances we could take a look at it, but in that area we are not able.

**Mr. Lawlor:** Now that the Law Reform Commission is running out of steam, do you think it might be given this task?

**Mr. Callaghan:** The restatement of various aspects of the law, certainly civil law, in the country, I would think could more appropriately be done on a federal level. I am not necessarily moving up with a restatement of the law of contract for the Province of Ontario, but coming up with a restatement of the law of contract for the country, so that the various provinces could adopt it if it was appropriate. It certainly would be my view of the matter, sir, that if we did get into that area it would have to be on a national level to be truly effective. I don't think the province should undertake that study without participation from other provinces and the federal government.

**Mr. Lawlor:** You will wait a long time for an occasion like that. What about all this

vaunted leadership that you fellows are supposed to be giving to the rest of the country? You preen yourselves every time you do anything.

**Mr. Callaghan:** That is a question the minister can answer. I mean I can't answer that.

**Madam Chairman:** Does that complete your questions, Mr. Lawlor? Mrs. Campbell?

**Mrs. Campbell:** Madam Chairman, I don't know whether this is appropriate but would this be the place to question the philosophy of the various Crowns across the province?

**Madam Chairman:** Item 4.

**Mrs. Campbell:** Item 4, all right.

**Madam Chairman:** Is there anything further on item 2?

Item 2 agreed to.

Item 3, policy development?

**Mr. Singer:** Yes, item 3, Madam Chairman.

**Madam Chairman:** Mr. Young and Mr. Singer.

**Mr. Young:** Madam Chairman, in connection with item 3. I think this is the place for me to raise the matter of policy on the part of this department in the matter of land development. I raised the matter in the House in a question which I asked of the Minister of Consumer and Commercial Relations (Mr. Clement). The sum of his answer was that it was not his particular bailiwick and that I should look somewhere else.

The whole matter of land development and the policy of this department in respect to land titles and development of subdivisions in the province and this sort of thing was raised again with the Provincial Secretary by the hon. member for Riverdale. I see no other place where this might be raised, except under policy development.

**Hon. Mr. Bales:** I am not begging the question, Mr. Young, but this really belongs in the old DMA or TEIGA—Treasury, Economics and Intergovernmental Affairs, in the planning area—but I am quite happy to try to discuss it here in a general way.

**Mr. Young:** This arises out of the Ontario Court of Appeal decision recently, I think, as much as any other place.

**Hon. Mr. Bales:** Yes, that is right.

**Mr. Young:** And that would come under this department.

**Hon. Mr. Bales:** No. This is not precluding in any way discussing that decision, but what was done with that decision, as I said in the House, was I referred the decision to Treasury, Economics and Intergovernmental Affairs and to Consumer and Commercial Relations, because it particularly deals with the Planning Act and registration procedures.

Having said that, we have established an interministerial task force to look at that decision and to look at what subsequent legislative action, if any, needs to be taken. That is the way I handled the matter, but I must have their input into this. I don't claim that I should insert myself or usurp their responsibility for the Planning Act or for the registration procedures.

Having said that, I will be glad to discuss it here in a general way.

**Mr. Young:** Madam Chairman, if I could bring before the minister a specific example of this kind of thing, perhaps it would clarify the situation a bit. Last spring one of my constituents received a phone call from an agent of a land developer and told him about this area up near Stayner that was being developed. He brought to him a subdivision plan, signed by the proper authorities, and so on. It had land surveyors' signatures on this, and all the rest.

He told them about the great developments that are going to take place and how he could have a country estate where he could grow grapes and the fruit trees and get the children away from the city. A beautiful picture was painted. Then he took the prospect up to have a look at it. He liked the land very much. It was 100 ft wide, 200 ft deep, a country estate for him. So the chap concerned said he was interested and he got some of the other members of his family interested. They, as a group, bought several lots and they had the vision of the future. This chap commenced to ask about building permits and was told that as soon as the thing was finalized they would be available. In the final offer to purchase he found this phrase:

There is no representation herein made as to the availability or issuance, or lack of availability or lack of issuance of building permits, or as to any matter whatsoever relating to the same or upon which the issuance of building permits may depend or as to the present or future zoning, it being agreed that the purchaser has



offered to purchase the real property herein on an "as-is" basis.

He didn't understand all this, of course—most people don't—so he went to the real estate man and said, "What does it mean?"

"Well," he was told, "it simply means that this is the situation now. The zoning may not be proper; it is agricultural land. But as soon as this plan is finalized, everything is going to be fine and you'll get the building permit."

"All right," he said, "I will go ahead on that basis."

What had happened, of course, was that checkerboarding has taken place, prior to the 1971 amendment of the Planning Act, which would have prevented the company from selling lots of this kind to prospective purchasers.

This chap, who thought he was buying from this particular company, which is European Garden Enterprises Ltd., actually bought the lot from a solicitor's wife. I have the indenture here, which has the signature, not of European Garden Enterprises but of the wife of one of the solicitors of the company. She evidently sold the lot to him.

Of course, they have this properly arranged—the checkerboarding system, several people acting for the company and so on. Then the letter from the solicitor accompanying the deed had certain things in it, such as:

You were informed, prior to closing [he said he wasn't, except perhaps vaguely] and we herein confirm, that the lands herein are zoned for agricultural use. They are subject to subdivision control and under the Planning Act they cannot be subdivided. No building permits are available. No rights of way are registered on title for the parcel of land above-noted.

Well, he goes on in this vein. Now this man—

**Mr. Renwick:** You should read the rest of it.

**Mr. Young:** All right.

The municipality has not assumed the roads on the reference plan as public highways, so they are in effect a licence for access. Documentation registered on title appears to nullify the separation of various parcels affected by the agreement of purchase and sale, and as a result, as we have already informed you, we cannot certify title, because this title cannot pass to you if this transaction, or prior transactions, on this title are in contravention of the Planning Act of Ontario.

**Mr. Singer:** How much land did he buy?

**Mr. Young:** He bought one lot.

**Mr. Singer:** How big was the lot?

**Mr. Young:** It was 100 ft by about 200 ft.

**Hon. Mr. Bales:** Can we ask another question? Was it the lawyer's husband—

**Mr. Young:** The lawyer's wife conveyed the title. But he did all the business with a representative of the company.

**Hon. Mr. Bales:** Turn over the deed. Is it the husband of the vendor?

**Mr. Renwick:** It says, "Return to L. Grieve Robinson, Barrister and Solicitor, RR 3, Stayner," and the grantor is Isabel Mary Robinson of the township of Nottawasaga.

**Mr. Singer:** Do you know who L. Grieve Robinson was? He was an NDP member of this House at one time.

**Mr. Young:** Was he a member? I don't think he ever quite made it.

**Mr. Singer:** Yes, he did. Yes, he did.

**Mr. Young:** Well, Madam Chairman—

**Mrs. Campbell:** He learned a lot in a few years.

**Hon. Mr. Bales:** In all fairness, that is the kind of a thing that should be referred to the Law Society.

**Mr. Young:** Well, let me just finish in another two or three minutes.

When this chap came to me after the sale was completed and he couldn't get his building permit as the months went by, I did some digging and I found that a ministerial order had been issued on Feb. 20, 1970, freezing all development in Nottawasaga township, pending the preparation of an official plan. Later the plan was prepared and sent to the minister. It is now being circulated, evidently, and it will take some time before it is completed.

But even when the official plan is passed, township officials with whom I have been in contact hold out little hope that this plan or any other of the plans surrounding it, involving about 350 lots, will ever receive township approval. Part of the company land is low-lying and will be subject to the careful scrutiny of the medical officer of health. Nor does the township feel that it wants to pay for the services this and the adjoining subdivisions will demand.



European Garden Enterprises won't own the land after the people buy it. It won't be responsible for the services needed, and the township isn't going to build the streets, install the water and sewers, build schools or provide the police and fire protection needed. And I might say that the company deeded the road allowances to the township without its knowledge.

So a residential subdivision of this kind, without industry, will hardly be self-sustaining taxwise; and if it is ever approved, the rest of the township will have to subsidize it.

The present owners of the lots, even if they have legal title to the land, are of course in a very tough spot. They have no legal access to their lots. European Garden Enterprises, without the knowledge of the township, as I mentioned, deeded the road allowances—and they put a little gravel on the road, but that is all—and the township is going to think twice before accepting the expense construction and maintenance of these streets. Under these circumstances, the usual 50 per cent provincial subsidy can't be paid for the roads.

What is more likely, if the present owners really want to legalize their total status, is that they will have to form their own company, draw up a new subdivision plan, accept the costs of the streets, water and other services that the township will demand, and apply for zoning and subdivision approval and hope for the best.

These lots, then, are still being sold—

**Hon. Mr. Bales:** Mr. Young, that is a self-serving letter by a solicitor on behalf of a vendor who apparently was his wife. If in fact Grieve Robinson is a solicitor,—and I don't know that—in my view that is the kind of a thing which brings the whole profession into disrepute; and in my view it should be referred to the Law Society.

Elie Martel may shake his head and say, "There's no point to that," but that is not the case, because the Law Society has very stringent and important powers to deal with these kinds of things. And in my view that kind of certificate, or reporting letter, is most improper. The deed is improper, from what I can see of it, and I strongly recommend and advise that it should go there.

**Mr. Young:** There is no way that these people can possibly get to their lots legally, except by helicopter—and they never will—

**Mrs. Campbell:** They can borrow Hydro's.

**Mr. Young:** The township is not going to assume these road allowances; they are not going to build roads. This kind of thing is still going on, and my question is this? Is it not possible that legislation be drafted to prevent this kind of skulduggery going on in this province?

**Hon. Mr. Bales:** Prevent what? For example, we are moving toward the land titles system on a unified basis, which is a form of guarantee of title by the registry authorities. The registry office depends on the solicitor to guarantee the title and to give his certification. The land titles system still depends on that to a degree, but the master of land titles is the one who will not accept the title and will not give his certificate if, in his view, it is not valid. When we move to a unified system of land titles, and if you are going all the way—and there have been occasions when I have felt that with the land titles system, you take the burdens with the benefits; and there were a lot of burdens, if I may say so—you can go too far. I think that the guarantee of the title was good, and the systems can be simplified.

**Mr. Young:** But this land is checker-boarded now and it still can be sold legally. Is there no way by which this kind of thing can be stopped? There is no access to these lots, and no protection for these people. More of these lots are going to be sold and they are going to be resold.

**Hon. Mr. Bales:** It is not for me to prejudge them, but in that kind of situation, if you took the offer to purchase and that man was legitimately acting for the purchaser, I would be curious as to whether he was acting for both the vendor and the purchaser.

**Mrs. Campbell:** I doubt if he was.

**Hon. Mr. Bales:** I wonder who the purchaser's solicitor was who would accept that.

**Mr. Lawlor:** I agree with you, it should be referred. But while the lawyer may be in considerable hot water over the whole incident, acting on both sides, he will no doubt go in and say that he gained verbal advice and called the client in and thoroughly instructed him in advance, and say what the impingements on the title and clouds were—more than a cloud; it was a kind of a tornado. It rained all night. Nevertheless, the matter, from a legal point of view and on the basis of

the checkerboarding decision, is perfectly legal and remains legal to this hour.

**Hon. Mr. Bales:** Well, it depends on the intent.

**Mr. Lawlor:** The Minister of Consumer and Commercial Relations has expressed how prickly, how porcupine-like the whole thing is, but certainly your ministry ought to be profoundly involved in amendments per se and only the legal brains can do it, proceeding through the Planning Act in order to close those loopholes which, by section 26, you have inadvertently created.

**Hon. Mr. Bales:** Mr. Young was kind enough to refer to the parts of the amendments of 1971. I took some part in those last year.

**Mr. Young:** This was not the one lawyer. The vendor and the purchaser had different lawyers.

**Mr. Singer:** Madam Chairman, a few of us got that 70 or 80 page judgement of the Court of Appeal answering your question and I at least attempted to struggle through it. I've got it in my briefcase. I had it here earlier this afternoon and it makes very interesting reading. But the fact remains the the Court of Appeal has answered a series of hypothetical questions and we await, with bated breath, the final decision of government as to what you are going to do about it. Now, I don't know the extent of it. One of your civil servants, I think Mr. Hilton, had something to do with it, I'm sure—

**Hon. Mr. Bales:** He did.

**Mr. Singer:** —with framing the question, what you're going to do now that you have these answers. I have a gentleman who is a constituent of mine; he's not particularly complaining about the lawyer, but he says:

I spent some money. I apparently might be the owner of a lot on which I cannot build anything—anything at all; which I'm told I cannot sell; which I have the great privilege of paying taxes on but there is nothing I can do with it. I got into this partly, perhaps, because of my own fault, but certainly the legal advice I was able to obtain wasn't clear enough to tell me what I was getting into. Now I'm stuck. I've got a piece of land for which I get repeated demands for taxes and I can't do anything with it. I can't sell it to anybody and I can't build on it.

Surely, at this point in time, the ball's in your camp?

**Mr. Lawlor:** It's not one, it's thousands of people.

**Mr. Singer:** There are thousands of people in Ontario who have this kind of confused title. I'm not saying you, the government, necessarily created it. I'm not zeroing in on the Attorney General. But the situation is here. There was the very considerable question in the minds of the law officers of the Crown that brought about this complicated series of questions directed to the Court of Appeal. They've given a very complicated series of answers.

Now, out of all that, surely some eventual intelligence has to emerge for the people involved, and substantially without levelling blame and without determining whether the lawyer involved in Mr. Young's case, or any other lawyer, is personally responsible. What are you going to do for those people who are affected?

There is a very important, I would think, pending lawsuit with the Toronto Daily Star named as defendant, lying at the behest of people called—what was that name?

**Mr. Lawlor:** Whiterock.

**Mr. Singer:** —Whiterock, who, if they are right I would guess have a very substantial claim for damages for slander of title. If they are wrong, then everybody can go about their business. But the question of who is right and who is wrong in these is something less than simple, and I know that there are many, many thousands of people in Ontario who look to the source of all law in the province, the Attorney General, to straighten this thing out, either by an interpretation or preferably by legislation, which hopefully we'll see in the next few weeks.

**Mr. Young:** The trouble is this is still going on. These sales are still being made and these people find that they can't get building permits. Evidently the general understanding is the land goes back if they're unhappy. Trouble is they've all paid in cash, but they have a right to sell that land to somebody else.

**Mr. Singer:** They don't really have the right to sell the land because people are sufficiently alerted and they won't buy it. The lawyers are sufficiently alerted that they won't let new purchasers buy it, but the tax



people aren't sufficiently alerted to stop sending out their tax bills.

**Mr. Young:** A lot of new people are being taken for a ride yet.

**Hon. Mr. Bales:** Generally, on this matter, prior to the 1971 amendments which I introduced in March of 1971, there was a new system developed at that time wherein, for example—I'll refer to a township lot because they were usually in a rural area say of 100 acres or 200 acres—the scheme that was devised at that point in time was "A" sold to "B" and in the description it showed the 100 acres or the 200 acres, whatever "A" had originally owned in acreage, divided into a multiplicity of parcels.

That was the scheme at that time, and I've forgotten for the moment the colloquial name that was applied to it. There was a decision, I think, by Judge Daimon, if I recall correctly. We brought in legislation. Now, just before we brought in legislation I was told that particularly in Peterborough and Victoria and certain other parts of the province, great tracts had been subdivided in that way. Certainly the plans had been made for subdivision.

With the wisdom of the House, we passed those amendments and many of those schemes dissipated overnight. It didn't go through at all. Whether the deeds had been registered or not, I don't know. Certainly, many of the surveyor's descriptions had been prepared. As I recall at that time—and I went back over many of the problems, in 1961; Mr. Singer, of all of us here, perhaps may be able to remember this better than anybody,—I think that in 1961 there was a validation bill.

**Mr. Singer:** There used to be an annual validation statute about the time.

**Hon. Mr. Bales:** That was in reference to taxes, but this is in reference to the planning division. Then, in 1967 there was another validation bill, and certainly in the second case, if not the first, it was made very clear in the statements of the then minister that people should not anticipate that every few years we would pass a new validation bill to rectify whatever schemes the fertile minds had developed in the interim to get around the Planning Act, because by so doing one was undermining the whole system of the plan by saying to people: "Well, this may be the law today but use your fertile imagination, find a

scheme, but in the space of a few years they'll have to pass another validation bill and all will be well again."

**Mr. Singer:** But you are talking about two different groups of people; one are the smart promoters and the other the poor suckers who get sucked in.

**Hon. Mr. Bales:** But I found that when the Whiterock problem arose in the early fall of 1971, a number of people from various areas—Peterborough particularly, Victoria and other sections—came to see me in my office then as Minister of Municipal Affairs, dealing with these particular problems, saying "My title may be invalid." Frequently it was not on the basis that the titles for this section are invalid but they may be invalid. "Pass some law to assure us that we have good title notwithstanding". I would ask them: "Did you have a solicitor? Did he give you a certificate? Did he certify the title?"

There were some cases where there were real problems. In some of those cases I recommended to the people that they should go and make an application to a committee of adjustment to get a proper land severance if the committee of adjustment would see fit to give it. In a number of instances that was done. They hadn't had proper severances. They went, their application met the requirements of the local municipality and they received their application.

In no way could I ever tell them that that's all you do and you automatically get it. That's up to either the land division committee or the local committee of adjustment to accept them. But there were a great many people who did not have invalid titles but were afraid that they might have had invalid titles.

Now, there were amendments in 1971. We have the questions which were really based on the situation prior to the 1971 amendments. I say this to you, that I think that there is certain legislation that is required to meet certain problems and schemes that have shown up in this constitutional question, etc.

That legislation is being developed at the present time and I hope will be brought before the House very shortly. But I share with you my concern about simply passing another Validation Act. I think that that's a two-edged sword. You may think we are solving something at the moment but I think we are creating a bigger problem. There is a certain area and a certain type of division that's in there that I think we do have to act



on as we acted in 1971. I think those amendments of 1971 were good in that they stopped that kind of situation that was developing at the time, and I am hopeful that the new ones will also have that effect.

**Mr. Renwick:** Well, Mr. Minister, if I may just follow up on another point—

**Hon. Mr. Bales:** May I just conclude by simply saying I don't think it will solve all of the problems.

**Mr. Renwick:** I want to deal specifically with the problem which you have raised as it is related to the constitutional questions reference. I read the answer to question number nine as an invitation by the court to the conveyancers to circumvent the intention of the Legislature. I read it that way specifically because the Court of Appeal in their answer to question number nine ruled out any meaning for section 10 of our Interpretation Act.

They legislated it out of existence in a very polite way. I want to quote that one paragraph at the very end of their judgement, and ask that you give serious consideration to amending the Interpretation Act to see if it is possible to deal with the problem.

At the very end of their judgement, the court stated:

In our reasons for judgement herein, we have cited many English authorities relating to statutory construction. The English Interpretation Act does not appear to contain a provision similar to section 10 of the Ontario Interpretation Act RSO 1970, chapter 225, but it would not appear that the absence of such a provision from the English Act has deterred our courts from applying substantially the same principles of statutory interpretation as those recognized and applied in England.

Now, as only the judicial mind could state the problem, what they in fact did was to legislate out any meaning to section 10 of our Interpretation Act. They applied the English statutory interpretation provisions which don't contain section 10 of our Interpretation Act. This reads as follows:

Every Act shall be deemed to be remedial whether its immediate purport is to direct the doing of anything that the Legislature deems to be for the public good or to prevent or punish the doing of anything that it deems to be contrary to the public good and shall accordingly re-

ceive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit.

Now, that seems to me to point out the problem that we are faced with, when we have the Court of Appeal of the province bemused with the conveyancer's art of evading or avoiding the statutory intention of the Legislature of the Province of Ontario. The minister says we cannot produce a situation where every few years we are going to have a Validation Act, yet you have the situation where the Court of Appeal, under this sort of hypnotic effect that the old conveyancers' actions have upon them, saying to the Legislature of the Province of Ontario one of the basic provisions which is designed to give the court guidance with respect to the intention of the Legislature is of no meaning in the law of the Province of Ontario.

I think that's a very clear statement that the Court of Appeal just simply said such intent means nothing to us. I think that until such time, in this very difficult area of government legislation, as a matter of public policy, trying to express the statutory intention—until this question is clarified in some more effective way—we are going to continue to run into these problems. The court has extended an open invitation to the conveyancers to do in the legislative draftsmen with respect to the intention of the Legislature.

I would ask as one aspect of the study of the problem, one peculiarly within the purview of the Attorney General, that that particular section of the Interpretation Act be looked at to see whether there isn't some way that the Legislature can re-enact a section which will give some leeway to the courts to support legislative intention, rather than to take the ancient and rather traditional view to knock down legislative intention, which is what I think it is fair to say from the point of view of the Legislature is an attitude which the courts have had in England.

**Hon. Mr. Bales:** I wasn't in the House at the time, but I think that you raised this at the time when Mr. Kerr's estimates were before the House. We have asked Mr. Hilton, particularly, to look at the points that you raised that particular time in reference to this interpretation. Mr. Callaghan indicates he has something to say.

**Mr. Callaghan:** The only comment I can make, Madam Chairman and Mr. Renwick, is that section 10 was argued to the Court of Appeal. The implications of that section were argued to the Court of Appeal and they saw fit not to apply it. You are just as familiar with courts and their handlings of the interpretation of statutes as I am. If they don't like an argument they will ignore the statutory provisions of the Interpretation Act.

The real problem, I think, is a question of drafting. How does the Legislature express its intention in such fashion that the court cannot avoid that intention? Section 26 of the Planning Act is not that ambiguous, in my view, but that is just one view, which obviously the Court of Appeal didn't accept.

One way that we could possibly handle the problem is maybe have more preambles to the legislation that we put out. But if you go back to the human rights case that I know I was involved in in the Supreme Court of Canada in 1971—there may be others, but that is the only piece of provincial legislation I am aware of in which there is a preamble—if you review that decision, you will see that the impact of that preamble on a court is zero.

So the problem that legislators are faced with is somehow or other getting through to the court their intention in such fashion that the court cannot, through its legal reasoning processes, ignore it, and really, sir, I don't know how you can do it. I always thought that section 10 of the Interpretation Act was a beautiful section. Really it was a section which a legal mind could apply in many many cases, but it is very rarely applied.

The only thing I can tell you there is that it was argued in that case but it was not applied. How you get a court to apply a section, in other words, how you get a court which rejects your argument in principle, to apply a statutory provision which you think supports it, is a question that I don't know if anybody in our ministry has the answer to.

**Mr. Singer:** Surely you can take that decision on appeal to the Supreme Court of Canada?

**Mr. Callaghan:** You can appeal any ruling under the Constitutional Questions Act. Whether or not they are going to appeal it is another question. I don't know.

**Mr. Singer:** Could I ask the Attorney General, is that being considered?

**Hon. Mr. Bales:** No.

**Mr. Callaghan:** The decision itself is consistent with the Forfar decision, which of course is a decision of the Supreme Court of Canada. It would probably be meaningless to appeal it. I don't mean meaningless in any derogatory sense, but I think anybody familiar with those two decisions could tell you what the answer would be.

**Madam Chairman:** Thank you, Mr. Callaghan.

**Mr. Young:** Just a final question, coming back to this practical situation which I raised tonight: Short of massive publicity, how can this sort of thing be stopped? Of course, at the present time with the Whiterock situation and the very heavy suit, I suspect the media of publication are a little hesitant to take this on. But is there any way that this sort of thing can be stopped?

**Hon. Mr. Bales:** With a licence.

**Mr. Young:** Is there any answer?

**Hon. Mr. Bales:** Is it a licensed broker who is doing this?

**Mr. Young:** No, it is not a licensed broker. This was the answer I got from John Clement; but this doesn't concern him because it's not a licensed broker carrying on this kind of business.

**Hon. Mr. Bales:** But you indicated to me that there was a real estate agent.

**Mr. Young:** Well, he presented himself as a real estate agent. He was selling lots on behalf of European enterprises and then turned over to the lawyer presently to consummate the—

**Hon. Mr. Bales:** He was not an agent?

**Mr. Young:** I beg your pardon?

**Hon. Mr. Bales:** He was not an agent?

**Mr. Young:** Not a licensed agent, no. He was simply a person who was gathering up prospects and selling them on the idea of buying, taking them up there to show them, and then of course—

**Hon. Mr. Bales:** The offer to purchase that you read, you know, is just riddled with confusion.

**Madam Chairman:** Now, is there anything else on item 3? Does item 3 carry?

**Mr. Young:** So these people are helpless in this situation at the present time?

**Madam Chairman:** We will meet tomorrow afternoon directly after question period.

**Mr. Martel** moves the adjournment of the committee.

Motion agreed to.

The committee adjourned at 10:30 o'clock, p.m.

## CONTENTS

Monday, April 30, 1973

Justice policy programme, continued .....	S-27
Law officer of the Crown programme .....	S-36
Adjournment .....	S-55







# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Tuesday, May 1, 1973**

**Afternoon Session**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973



## CONTENTS

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 1, 1973

The committee met at 3:15 o'clock, p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

**Madam Chairman:** The substitutions I would wish to announce are Mrs. Campbell for Mr. Worton; Mr. Singer for Mr. Braithwaite; Mr. Renwick for Mr. Stokes; Mr. Lawlor for Mr. Deans.

We are at present on page J12 in the estimates for the Ministry of the Attorney General. We are at the point of doing vote 1201, item 3, policy development. When we adjourned last evening Mr. Lawlor was the speaker, and after Mr. Lawlor I have Mrs. Campbell.

On vote 1201.

**Mr. P. D. Lawlor (Lakeshore):** Thank you, Madam Chairman, you are keeping a good itinerary. As long as you have me on the top of the list of speakers, I find your position completely in harmony with my own.

On policy development; that is a new entitlement. Previously, Madam Chairman, it was under a separate vote; I think vote 1107 or 1108, called research and development. Now it has been picked up and capsulated into policy development and somewhat expanded.

The minister will forgive me if I don't recall precisely the modes of his expansion. He mentioned it in the statement yesterday I know, but it is not immediately at hand. You are going from \$409,000 actual expenditure to an estimated \$841,000 for this year. This is a very great deal larger sum of money.

**Hon. D. A. Bales (Attorney General):** It is part of the reorganization of the ministry. It isn't only research, it is all of the information parts and other matters. It is the whole range of assessing the legislation that has to be brought forward.

Mr. Pollock, the Assistant Deputy Attorney General responsible for that work, is here.

As I said in my statement yesterday, and I am just quickly looking for it—

**Mr. Lawlor:** By the way, have you been able to get us copies of your statement?

**Hon. Mr. Bales:** Yes I did. I asked for it to come to you, and Mr. Donaldson has it.

I said at that point:

When one looks at the great volume of statutes for which we are responsible, and couples that with the overriding responsibility for the administration of justice, both criminal and civil, in the province, it becomes apparent that there must be some co-ordinating agency within the ministry to do the research, planning, programme evaluation and alternative policy development.

Over the past year we have established such a division which is responsible for co-ordinating outside research, instituting research programmes, evaluating our own programmes and re-examining our programme direction. In the past year this division has undertaken a review of the Jurors Act and the procedure for selection of juries.

And so on. That is on page 13 of that statement.

**Mr. F. W. Callaghan (Deputy Attorney General):** Thank you.

In the past, Mr. Lawlor, we had a systems development branch and a programme planning and evaluation section of the financial administration section. We felt that by uniting them in one area and bringing together what research and systems development capacity we had, we would be able to formulate a policy group that can take a look at the programmes in the ministry and try to assess their effectiveness. We could try to evaluate what programmes should be cut out, what programmes should be expanded, and also give general direction in policy matters which relate to the effective operation of our ministry. We have never had that before and we are starting to develop it.

The reason for the increase you see in salaries is really just a transfer from that budget over to this budget, plus the addition of two legal officers, an assistant deputy and secretarial staff to support them.

**Mr. Lawlor:** Except that the sum has jumped to about double—from \$400,000 to \$800,000—in the process of doing that.

The minister mentioned outside research, and there was some talk of the centre of criminology and other things the other day. Just what outside research are you having done at the present time?

**Hon. Mr. Bales:** As you know, they used to simply allocate money to the centre of criminology—Mr. Edwards is in charge of that. We no longer simply allocate money and have them do whatever research they want to do. As valuable as it might be, today we tend to request that they do specific projects—that's our programme. We ask them to do specific research rather than deal with it in the former way. They did work in reference, for example, to the Crown attorneys. They are carrying out a study on that whole field now.

**Mr. Lawlor:** It is presently going on?

**Hon. Mr. Bales:** It was just recently assigned to them.

**Mr. Callaghan:** We have been concerned, for some time, about the principles and basis upon which the Crown attorney exercises his discretion in criminal matters and we have asked—

**Mr. Lawlor:** Pardon me! You mean as to whether he proceeds with the trial or not?

**Mr. Callaghan:** Yes; and where he proceeds with the trial, what charges, what basis he uses; and what basis he uses when withdrawing charges or accepting lesser pleas on charges.

We felt it was time an in-depth study was done as to the exercise of that discretion across the province, and we commissioned the centre, which has we think very great capacity to do that type of in-depth research, to make a study of the exercise of the Crown's discretion in criminal matters.

**Mr. Lawlor:** You are including plea bargaining I take it?

**Mr. Callaghan:** Plea bargaining comes into it incidentally. It doesn't come into it directly.

**Mr. Lawlor:** I see.

**Mr. Callaghan:** We didn't put any strictures, or any direct controls on the study, any limitations on the study.

I assume the exercise of discretion with reference to the acceptance of pleas surely

is one of the major factors on which it will give us, I hope, some statistical study that will be useful to us. We have never had it done before. It is the first time we have ever been able to commission research in an area like that.

**Mr. Lawlor:** I take it they are doing policy work too, in a sense, as to the feasibility, what the perimeters are or what weight that should be given to, say, plea-bargaining? They will give you some direction; how you exercise it is your business.

**Mr. Callaghan:** That's right.

**Mr. Lawlor:** It is directed to the discretion within your department.

How much money have you allocated for that end?

**Mr. Callaghan:** We have \$50,000 for that.

**Mr. Lawlor:** Are there now any other outside studies being made by any other agencies?

**Mr. Callaghan:** Well no; the Law Reform Commission, of course, does the great mass of it. These studies are the first we've inaugurated this year, those on the discretion of the Crown.

**Mr. Lawlor:** If I may ask for a personal opinion, what do you think of Professor Edwards' study on sentencing?

**Mr. Callaghan:** Actually, I think it is an excellent work. I think it is the first time anybody has taken an in-depth look at sentencing and tried to rationalize it and to understand the factors which lead judges to arrive at their particular sentences. I don't think it is the last word, but it certainly is a first step. I take it that is the study by Prof. Hogarth for the centre that you are referring to?

**Mr. Lawlor:** Yes.

**Mr. Callaghan:** Could I make this point? You asked where that money was to be used; well \$200,000 of this estimate is for the introduction or the start of the management information system we are trying to bring into the ministry, that's one of the reasons for the increase.

We have been given the finances to start a research programme and gather together the necessary equipment, in order to commence putting together a management information system. It will take a number of years to develop, but \$200,000 goes on that.

**Mr. Lawlor:** Would you mind giving me a clear picture. Is this systems analysis? Is this administrative streamlining?

**Mr. Callaghan:** No, this is developing a system whereby the ministry people responsible for the programmes of the ministry have day-to-day information coming in from the various courts, from the various offices— registrar's office, clerk's office, Crown attorney's office—which give an actual data base upon which to make management decisions for the handling of all the various problems the ministry has.

Now we have never had, in our ministry, any data base upon which decisions could be made. By and large, for many years, the system has grown like Topsy, and there has been no real basis for examining case-loads, work-loads and methods of disposition of cases. Now it is our view that this is essential to any efficient operation in the administration of justice, and that what we have to develop is a complete management information system that will enable the people in the ministry with the responsibility for developing programmes to make decisions based, not on guesses, but on what is actually happening. It will also enable us to make projections, we hope, as to what effect certain decisions will have on the total system.

**Mr. Lawlor:** It still puzzles me. I think that's a lot of money, \$200,000.

I would take it that you know the statistics, the flow through the courts, the incidence of various kinds of cases. They come through the whole network, it feeds into your office, you have all that stuff already.

**Mr. Callaghan:** No, it doesn't. That's the point.

**Hon. Mr. Bales:** It hasn't done so. The information has been there, but it hasn't been correlated.

**Mr. Lawlor:** That's startling! What kind of a Neanderthal outfit have I been dealing with all these years?

**Mr. V. M. Singer (Downsview):** You mean this ministry?

**Mr. Lawlor:** Yes.

**Mr. Singer:** I can't believe that.

**Mr. Lawlor:** In terms of this correlation of material then, and information, you have mentioned that two of the legal officers have been placed on the staff, but is there then some systems analyst or some individuals

who are competent in management techniques being hired by your department to correlate?

**Mr. Callaghan:** There are 15 management services officers.

**Mr. Lawlor:** Fifteen management services officers? There goes the \$200,000!

**Mr. Callaghan:** Mr. Pollock advises me there are three programme analysts.

**Mr. Lawlor:** Three programme analysts!

**Mr. Callaghan:** These people have, as I have indicated, been switched into this division from the other branches and their work is now being co-ordinated and directed along the lines that we hope will produce for us a management information system. They are experienced. They are statisticians and analysts.

**Mr. Lawlor:** I don't get the picture of this. If you don't mind, give me the top one of that 15.

**Mr. E. M. Pollock (Assistant Deputy Attorney General):** There are 15 systems development personnel, including analysts, statisticians—

**Mr. Lawlor:** How many statisticians?

**Mr. Pollock:** Two.

**Mr. Lawlor:** Okay; continue!

**Mr. Pollock:** There is a general group of systems development personnel who are experienced in various levels of systems development, including soft systems and computerized mechanical systems.

**Mr. Lawlor:** Are you using the government computer in the basement or are you—

**Mr. Pollock:** We are using the Ministry of Transportation and Communications computer. We are also using other existing computer complexes. We are using the Metropolitan Toronto computer. It depends on the type of programme that is being run and for whom the service is being provided within the ministry.

**Mr. Lawlor:** Okay. It is not okay, but I don't know what I can do about it.

**Mr. Singer:** Madam Chairman, could I ask a question?

**Madam Chairman:** Yes, Mr. Singer.

**Mr. Singer:** There was an item in the House today that puzzled me very much; I



suppose it's a part of policy development, but could somebody in the ministry explain how you can conduct discoveries in an action when the parties haven't been ascertained? Can you develop that as a new policy? I am a little puzzled by this.

Hon. Mr. Bales: You are referring to the Dow situation.

Mr. Singer: Yes, the Dow situation. When the Provincial Secretary for Justice (Mr. Kerr) said the discoveries had already been conducted, it was my understanding the parties haven't as yet been ascertained.

Hon. Mr. Bales: As I heard it, he said "were being ascertained".

Mr. Singer: Yes; Well, is there a method known to the ministry whereby you can proceed with discoveries before it is clear who are the litigates on it?

Mr. Lawlor: To do it you have got to issue the writ; go ahead!

Hon. Mr. Bales: No, no!

Mr. Singer: You haven't developed that?

Hon. Mr. Bales: No, not yet.

Mr. Singer: Okay, I just wanted to check and see if I had missed those rules.

Hon. Mr. Bales: No you haven't.

Mrs. M. Campbell (St. George): Madam Chairman, I would like to follow through a little bit further on some of the details. In regard to these statisticians and others, do I take it that when you have clocked your judges as to the amount of time they take in merchandising justice, that results go to one of the statisticians, is that what happens to those records? Then what do you do with them following that?

Hon. Mr. Bales: We are not interested, really, in clocking judges, Mrs. Campbell.

Mrs. Campbell: Well you have been doing it! So I would like to know why, and how you get that through to whomever makes use of it and what's the purpose of it?

Mr. Callaghan: If I may assist on that. We have been trying, in Metropolitan Toronto, to develop principles for case-loading various courts. The cases have been broken down into various types, through their methods of disposition. To take one example, your traffic ticket, your uniform traffic ticket. As you know, it can be handled by a prepayment or

an ex-parte application, or the individual appearances. In an effort to ascertain how you could best handle those cases and whether or not you could load them all into one court or put them all through one computer, people have clocked the actual time it takes, on an average, for disposition of that type of case in the system. On the ex-parte applications, which make up approximately 32 per cent of the uniform traffic ticket dispositions, it turns out that from the time the officer gives his evidence to the time the justice of the peace renders a decision, it takes approximately 21 seconds, on an average. When you fit that together with the time it takes for an appearance, which would work out to approximately two minutes and 11 seconds on an average, on the uniform traffic ticket, you can begin to calculate how many cases a court can dispose of effectively in a day. When you get that information you try to design a method of court loading. In other words, you try to make sure that the various courts are effectively operating during the day by giving them a load of cases they can be expected to handle.

That's the reason you will see people from time to time trying to clock the various activities that take place in a courtroom. The statistician then brings them back. The analysts put them together and we try to develop a more effective method for handling them.

Mrs. Campbell: Madam Chairman, I wonder if we could hear from somebody who is more aware of the family-type court than the criminal court, and get some material on that—I don't really think you're dealing with traffic tickets in that court.

Hon. Mr. Bales: No, we are not.

Mrs. Campbell: I'd like to know what the principles are when it comes to that kind of justice.

Hon. Mr. Bales: Quite a different situation.

Mrs. Campbell: Hopefully they are very different. I'd like the analysis to be related, if it could be, to that court; because I don't understand it.

Hon. Mr. Bales: Well the chief judge was carrying out some general studies; I think that is probably what you are referring to.

Mrs. Campbell: I am wondering how this role fits into this policy development department, whether it is possible you will be doing some qualitative analysis and not just

quantitative analysis on the running of a court.

**Hon. Mr. Bales:** We will be.

**Mrs. Campbell:** Secondly, the Attorney General referred in his opening remarks to a policy of automatic enforcement. Does that come under this too?

**Hon. Mr. Bales:** That is on maintenance orders.

**Mrs. Campbell:** That will come under the family court, maintenance orders?

**Hon. Mr. Bales:** Yes.

**Mrs. Campbell:** Right. Then I take it that it is only maintenance orders; is that a policy of this government?

**Hon. Mr. Bales:** Yes. I announced last year we were going to start on a programme of automatic enforcement of maintenance orders, rather than waiting for the individual to come forward and say the payments to me are in arrears, will you please take action and make the necessary applications.

That is very difficult on the person. It's inefficient; and it's a hardship really. For that reason I obtained the necessary support and backing to start on this programme. It is not complete, but it's being done in about a third of the family courts in the province at the present time. I want to see it expanded.

We have had some considerable difficulties in the Toronto situation, as you may well be aware, but I think there are some difficulties you just have to work with and iron out.

**Mrs. Campbell:** Well, Madam Chairman, following that: I am concerned about it. Had I not served in the courts I would have been wholeheartedly in favour of this, but since I have served there I am not so wholeheartedly in favour.

**Hon. Mr. Bales:** Of the automatic enforcement?

**Mrs. Campbell:** Yes. I wonder why this government relates these only to maintenance orders, rather than to access orders as well. Very often the problem with maintenance orders is non-enforcement of access orders. I would like to know whether that is being considered.

**Hon. Mr. Bales:** Well they are two different matters, two different types of situations.

**Mrs. Campbell:** Yes, but they relate one to another; not legally but practically.

**Hon. Mr. Bales:** We will probably give consideration to that, but there are many difficulties in reference to the maintenance orders situation.

You say here that you are not entirely in agreement with it. I'd appreciate some background on it, because obviously you have had experience.

**Mrs. Campbell:** I'd be delighted to take it up later. I don't think this is the time.

**Hon. Mr. Bales:** Whichever way you like.

**Mrs. Campbell:** But I would point out that as it stands now across this province, there is quite a difference in the approach of Crown attorneys to the question of access orders. Surely that should be uniform.

**Hon. Mr. Bales:** That's right.

**Mrs. Campbell:** A man should not be in a position of having to plead with a Crown attorney, surely, to get the right to be heard on an access order in the family court.

**Hon. Mr. Bales:** Mr. LeSage is here today.

**Mrs. Campbell:** I know. I spoke to him.

**Hon. Mr. Bales:** There are meetings of the Crown attorneys later this month, and I'll take it up with Mr. LeSage. It will be one of those matters that we will discuss at those meetings.

**Mrs. Campbell:** Would this policy development section be the section in which you would determine that you would bring the family court back into the position it was in before the government took over, by having pretrial counselling services restored as they were when the city and Metro ran the operation?

**Hon. Mr. Bales:** That would really be a policy decision. It may well be that the reports now being prepared on the whole family court situation will touch on that and deal with it.

**Mrs. Campbell:** You are referring, then, to the Law Reform Commission?

**Hon. Mr. Bales:** Yes.

**Mrs. Campbell:** I see. Well, I'll deal with it, then, under that.

**Hon. Mr. Bales:** It will be one of the things. If it isn't there now, it will have to be considered as well.

**Madam Chairman:** Mr. Singer.



**Mr. Singer:** Madam Chairman, again under this policy development, which perhaps is a catch-all thing, a matter was touched on yesterday but it now has a new twist. We were discussing the court of appeal decision in answer to the various questions posed in relation to land division.

There has just come into my possession a one page printed sheet of paper headed White Rock Industries Ltd., signed by a gentleman named Jack Wall, vice-president. It is headed "A Good News Letter to Our Clients: Court Decision Clears Your Land Title."

I won't read the whole thing but the last paragraph I think is very interesting—certainly very disturbing to me. It says:

Since the way has now been cleared for you to carry through your plans for your property, you may have questions—such as, for example, how to go about having your lot legally registered; if this has not already been done by your lawyer; or how to proceed with building plans and permits and possibly mortgage financing for such building—a question about roads—or arranging to complete a purchase or to add to your present lot—or any other question you may have. Through circumstances beyond our control we refrained from offering assistance or advice to clients in the past 18 months. Now, however, with the uncertainty removed, we cordially invite you to contact the undersigned by mail or telephone and we will do everything possible to provide you with the right answers to your questions and offer you every assistance possible in your planning.

It is nice to be back in business.

Now, I have certain substantial doubts about the fact that the answers to all of the questions by the court of appeal go anywhere near as far as Mr. Wall seems to believe they do. I think it is a matter of urgent importance that some position be taken by the government. I would quarrel with Mr. Wall's interpretation of these decisions, and I just wonder if a number of people may be improperly misled or led a little bit astray by the circulation of this kind of circular. I'd be glad to make it available to you.

**Hon. Mr. Bales:** I haven't seen it yet. I heard about it this morning.

**Mr. Singer:** I would urge upon you that something be done, and be done very quickly, in order that the government's position be abundantly clear. Certainly my reading of that decision doesn't correspond with the interpretation given to it by Mr. Wall.

**Hon. Mr. Bales:** We will have to go into the matter. Apparently there has been some communication from their solicitors to us about this matter, but I haven't seen this. I heard about it only this morning. We will go into the matter.

**Mr. Singer:** Would it be fair, I ask the minister, to suggest that it might be your opinion—and I don't want to put words into your mouth—that until your ministry has had a chance to look at this opinion, anyone who accepts all that's in that letter at face value might be running some very serious risks?

I'd like some kind of authoritative statement from you even going that far; perhaps as a warning to people who might be led a little further down the garden path than otherwise they might have been.

**Hon. Mr. Bales:** When you look at that decision of the court of appeal a good deal depended upon the intent and knowledge of the parties, applied particularly in reference to the White Rock situations. They are all different there; some people had knowledge of the kind of situation, others might not have.

You have just handed me a printed letter—and I haven't read it yet—you've read part of it. I certainly would not want to take it in any way as authoritative opinion—that it cured all their problems.

**Mr. Singer:** Fine!

**Hon. Mr. Bales:** Mr. Hilton has just advised me he was in touch, yesterday, with the solicitor on the other side. We'll be going into it further and we'll be talking to the solicitor about this matter. We are all concerned about those matters and the titles of the people.

**Mr. Singer:** That's enough for that.

**Madam Chairman:** Excuse me, Mr. Lawlor.

**Mr. Lawlor:** Would it go this far, to say that from their point of view, which is highly tendentious, that if, at this stage, providing the titles are valid, they took what used to be called mandamus proceedings with respect to local municipalities issuing building permits, that the local authorities would be obliged to issue them?

**Hon. Mr. Bales:** No, I wouldn't make any statement about that.

**Mr. Lawlor:** If it wouldn't go that far, then the statement is a piece of blandishment.



In other words, section 26 basically says that in certain contexts and circumstances related to the planning authority—with respect to registration of plans, the approval of plans—the role of the provincial government in the overall approval of plans is all predicated on compliance with that basic section.

My own feeling would be that once that section has been complied with—and I take it that the gist of that decision is that it was—then they could move further and oblige the authorities to issue building permits.

**Hon. Mr. Bales:** Yes, Mr. Lawlor, but on a building permit you are dealing with something, again, that is another whole situation. It has to comply with the local building requirements, it has to comply with the matters of servicing. For example, is the soil sufficient or satisfactory to take a septic tank? All of these things are quite outside the matter of title.

**Mr. Lawlor:** Yes, and that is really just the problem, isn't it?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** Having putatively obtained title in this particular case, this is still a ball-park away from being able to do anything about it.

**Madam Chairman:** Mr. Parrott.

**Mr. H. C. Parrott (Oxford):** I'd like to ask the minister—and I don't know whether it fits in this particular occasion—but last year at one of our committee hearings it was suggested to us that minimum fines were perhaps not a desirable thing to appear in the legislation. I am wondering if I could have some explanation for this. I think it stemmed primarily from Justice McRuer's considerations.

**Hon. Mr. Bales:** Why minimum fines?

**Mr. Parrott:** I was told on that occasion that it was most undesirable to have minimum fines. It happened to be in connection with an Act that I was interested in last fall. They didn't wish to put in a minimum fine.

**Hon. Mr. Bales:** Of course, in various circumstances the judge should have discretion on it. On the other hand, I think there need to be guides. In most instances there are minimums and maximums for many offences. Could you refer back to a particular case?

**Mr. Parrott:** I am talking, to be specific, about the Dental Therapists and Dentistry Act. At that time I was trying to argue for a minimum fine, because I quite frankly

thought we were destroying the whole bill by not having the minimum.

**Hon. Mr. Bales:** It wasn't a matter relating to these estimates. It was at a different time.

**Mr. Parrott:** Not specifically related to these estimates, but I thought this might be the only opportunity I would have to discuss that kind of policy. I wondered if it is a policy of the minister when they are proposing legislation.

**Hon. Mr. Bales:** In the denturists' matter, it related particularly to an occupation—a semi-profession. Certainly in most of those instances there is at least a maximum.

**Mr. Parrott:** Yes, there was a maximum.

**Hon. Mr. Bales:** What they were proposing there was the system, I suppose, wherein the judge in a certain circumstance could have complete discretion as to what it would be.

**Mr. Parrott:** Yes; so I am wondering if I can have some statement of your thoughts on this as policy.

**Hon. Mr. Bales:** It wouldn't be a uniform situation. That legislation would attempt to meet the requirements of people practising in that particular area. The government developed that bill itself, not those groups that it was discussed with. But I don't think you can have a uniform situation wherein you say there must be a minimum or there must be maximum.

**Mr. Parrott:** I am not proposing that. I am asking you how you personally feel on the matter of minimum fines. I don't understand the legal implications. I'm sure Mrs. Campbell would, but I am in—

**Hon. Mr. Bales:** You understand it very well, because you are looking at it from the public standpoint. There certainly should be a maximum but the circumstances differ as to whether or not there would be a minimum. I think we have to recognize the discretion of the judiciary.

**Mr. Parrott:** Which leads me to my second point, on the same issue.

In those two Acts I see a violation of the responsibilities, and they have different fines. I couldn't see the logic of that at the time. I wasn't able to make my point then, because we discussed one Act and the chairman continuously ruled me out of order in discussing

the next Act. I wanted to see uniform fines, but the rules of the day beat me very badly.

I just don't see the logic of having two different maximum fines in those two Acts. They are almost identical Acts and there are different maximums. I see no logic in that at all. I am wondering if the ministry could undertake a reconsideration of the maximums.

**Hon. Mr. Bales:** Sometimes there are different types of offences.

**Mr. Parrott:** They were identical offences in my opinion.

I understood that the game was over that day, and I know why in the sense of the rules; but it's now open season, isn't it? Could we not have reconsideration on those two Acts? And if so, how do I go about getting that kind of reconsideration?

**Hon. Mr. Bales:** It would really be dealt with by that particular ministry. They are the ones that prepare it with the help of the legislative counsel.

But I would be glad to look at it from your standpoint and have further discussion with you on it.

**Mr. Parrott:** Fine. I think there is some merit in that.

I am assuming then that it is not the policy within the ministry that minimum fines are bad things—that was the legislative counsel's suggestion to me at that time.

**Hon. Mr. Bales:** No, I wouldn't say so.

**Mr. Parrott:** That's reassuring. Thank you, Mr. Minister.

**Madam Chairman:** Thank you, Mr. Parrott. Mr. Renwick.

**Mr. J. A. Renwick (Riverdale):** Mr. Minister, I have a number of matters. If I go on too long, perhaps anybody else who wants to get in just stop me.

**Mrs. Campbell:** Don't invite us!

**Mr. Renwick:** I'll stop when I get weary of it and let somebody else pick it up.

**Madam Chairman:** Nearly everybody has spoken already, Mr. Renwick.

**Mr. Renwick:** I am concerned about the general thrust of your remarks. There seem to be a wide variety of so-called reform studies taking place within the administration of justice, and there doesn't seem to be any overall concept of what you're trying to

get at as the major fault in our system as I see it operating, and I only see it operating from time to time. You are, I think, selecting various specific areas and making a study of them without any overall view of what, in my judgement, is wrong.

Now, having said that, let me deal with some of the specifics and indicate, perhaps out of that, where I think you haven't got an overview which makes sense.

I appreciate your desire to remove the so-called police prosecutor from the prosecution of minor traffic offences and providing for law clerks to carry out that function.

What concerns me, of course, is what is a minor traffic offence now in terms of the punishment, the overall societal punishment, which is inflicted upon the person who is charged with that minor traffic offence? With the greatest respect to the quality of law clerks you will have in those courts—and you will select them and pay them as well you may out of whatever funds are available for that purpose—you are placing the citizen who has to come into that court at a disadvantage, it would appear to me, unless there is some method of providing him with representation of equal calibre at a price he can afford.

Because the consequences are very severe. If, for example, a person has nine points against him on his driving record and he is coming up for another minor traffic offence, for which he may have a legitimate defence, the net effect will be that not only will he be subjected to whatever that fine may be, but that he will also be subjected to an increase in his insurance rates of a substantial amount.

I don't think it is using too strong language to say—and many members have brought up this point in the Legislature—that it is almost putting a man in double jeopardy. There is the imposition of the fine by the court and there is the additional penalty of a substantial increase in his insurance premiums over a period of one, two or three years.

I am not arguing now the question of whether the insurance company should raise the person's premium, but the way the system is presently operating it means that the person charged with the so-called minor traffic offence has to have proper representation. With the bar fees at the present time—certainly in Metropolitan Toronto and I am sure throughout the province—even if one goes to the point of saying that in some way there is a role to be played by the law students in this operation, the ordinary person cannot afford the cost of that attendance in the court.



I note in the Attorney General's statement that he is going to make it at a more convenient time for the person who is charged with the offence. That is one small area where I think there appears to be an idea that because they are minor offences they should be treated in a minor way, and that the main emphasis is upon the processing of the matters through the system in a more efficient way, without any view of the total impact of the penalty imposed for the offence.

I assume that what the minister means is minor traffic offences; he means offences under the Highway Traffic Act.

**Hon. Mr. Bales:** That's right.

**Mr. Renwick:** Now some of those offences have all of the difficulty of proof and defence that charges under the Criminal Code have in certain occasions, and the defendant in such case, the accused person, has, in my judgement, got to have some adequate form of inexpensive representation at that point when he comes into contact with the court system.

**Hon. Mr. Bales:** If you look at the numbers, the very large proportion of people who attend before the provincial criminal court system are those at the minor offence level, the traffic level. In my view a great many of those people attending there on those minor offences—like speeding, failing to stop at a stop sign, etc.—they are not criminal situations at all, but they have been allocated there for adjudication over the years. They are putting pressure on that court.

You have heard it and I have heard it and observed it; there is a feeling that for many people who attend before those criminal courts, the judge cannot give the individual consideration to their cases that he might because of the pressure for so many instances to be dealt with.

It was our feeling that if we could remove from those courts a large volume of minor offences such as those I outlined—those are the kind that they are going to deal with, not those wherein personal liberty could be affected—if we take those away then the criminal courts would become much more what they are supposed to be and have always been supposed to be. They would deal with minor criminal matters, matters wherein a person, for example, could be—not necessarily would be, but could be—sentenced to imprisonment, or have a serious penalty imposed on him.

At the present time in many of those courts you have police there as a prosecutor. You

do not have a legally trained person. The police may become very familiar with the procedure over a period of time and may become expert in it, but they are not properly trained.

Then you have the other aspect that one policeman is giving evidence against a person and another policeman is prosecuting. Now he may be not in uniform—

**Mr. Renwick:** Mr. Minister, I said at the beginning I agreed with the change which you were making from that point of view, but the result of the change concerns me. Let me state, in a very capsule form ideally, how I think that new setup should operate. That is, that there would be a Crown law clerk—

**Hon. Mr. Bales:** Could I just interrupt?

**Mr. Renwick:** Yes.

**Hon. Mr. Bales:** It might be helpful if we could just go over the steps of how the system would operate. We have it here. Then having done that it might become clear.

**Mr. Callaghan,** you have it right here, would you deal with it?

**Mr. Callaghan:** I think, Mr. Renwick, that I should point out that a committee was convened to look into this matter and they came forward with certain recommendations. I am not sure that we have explained fully what those recommendations are.

Firstly, they agreed, after examining our system and systems in San Francisco and New York particularly where they are introducing this; one has just started up in Buffalo—

**Hon. Mr. Bales:** And Chicago.

**Mr. Callaghan:** And Chicago—that the trial of the majority of offences under the Highway Traffic Act and municipal bylaws should be removed from the criminal court process as a long-range objective; that is something that you can't do overnight, but it is a long-range objective.

Another long-range objective should be to dispense with jail terms as an alternative to default of payment of a fine and make the sanction the removal of the driving privilege. They suggested that at present, as we are well aware, a person who has been charged under the Highway Traffic Act for moving offences has two alternatives: One, he can enter a plea of guilty on the form, mail a fine in and pay it; or he can attend on an appearance date and go through the proce-



dures that we have today of appearing with counsel, arguing his case, listening to the Crown's case and having representation if he decides to have it.

They have suggested that, in addition to those two procedures—and they haven't suggested that we remove either one of those procedures—we have a procedure whereby there will be a hearing officer. The person can at his convenience attend at the hearing room; he may, prior to the date for his court appearance go to that hearing room, discuss the matter with the officer, and, if he proposes to enter the plea, enter his plea of guilty with whatever explanation he wishes to advance. There will not be a prosecutor there, and at that time the officer will discuss with him his driving problems, if he has them, and there will be driver training procedures and systems available to assist him.

It is an intermediate step. If he wants to plead not guilty and go into the court and defend himself, it doesn't deny him that right at all. It just gives him this intermediate alternative.

What is proposed is that we try this to see to what extent the public will take advantage of it. We are hopeful that, based on what has happened in other jurisdictions, it will remove a great deal of the cases from the courtroom. Based on what has happened in other jurisdictions, the public have been looking for this type of disposition of their other traffic violations.

And that is the proposal that we are operating on now. It's a pilot project which we hope to initiate in Toronto sometime in August. But the long-term objective is different. The long-term objective is to remove this type of offence from the criminal courts, and maybe direct the criminal courts into the avenue of prosecuting major crime, real criminal activity—as opposed to this type of activity, which it's felt does not require the adversary system and the full panoply of a court trial.

**Mr. Renwick:** Well, I think I'm in basic agreement with the proposition that it should be moved into a less formal setting. I'm not so certain that having the intervention of a hearing officer representing the government, even if he is not in a prosecuting role, before whom the person can either plead guilty and take some remedial treatment—or enter a plea of guilty, because it's not a trial—

**Hon. Mr. Bales:** No.

**Mr. Renwick:** —in other words, accept the option of signing a document which says he

agreed with the conviction, take some kind of remedial treatment—a driver test or some such examination as that—or go on to a court hearing, that it will necessarily solve the problem. Because that puts a lot of pressure on the person who goes to that first hearing. I think the conception of the intake into the system fashioned that way is not adequate.

I think the ideal way is for you to follow the proposal which you have—I want to say it very briefly because there are a lot of other things I want to raise—but I wanted to try to get the point across. With a Crown law clerk you go in before a hearing officer, rather than a court, and in an administrative set-up. But in addition to the Crown law clerk, there be the counterpart. And in the file of the counterpart, who will be acting for the person who appears, is a copy of the motor vehicle accident report and there is a copy, if necessary, of the information which is going to be put in evidence against him. So that on the basis of full disclosure of the information available to the Crown—the province ultimately, if he goes to trial—he can make a considered judgement as to whether it is a wise thing for him to enter a plea or not.

And also to have somebody tell him what the consequences are—you know: "That you are going to lose X number of points, that your driving record already shows that you've got six points against you. This means that your insurance rates are going up." And further you have an opportunity actually to have full disclosure to you of the Crown's case.

You can make a considered judgement with something equivalent to expert advice in order to take the pressure off the person. Because he has already attended once and he will have to attend again if he really wants to contest the case.

My point is basically the equality of the information available, and of the expertise in the person who is involved with him as being equal to that of the Crown.

**Hon. Mr. Bales:** That's a public defender system; that is what you are suggesting.

**Mr. Renwick:** Well, if one wants to designate it that way. Let me perhaps move on to three or four other areas where—

**Mrs. Campbell:** Madam Chairman, excuse me. Mr. Renwick did say that if we wanted to intervene we could. I wonder if I might have a question before he gets onto another point?

Mr. Renwick: I wasn't going onto another point.

Mrs. Campbell: Oh, I am sorry.

Mr. Renwick: I was going to pick up what the—

Mrs. Campbell: Okay.

Mr. Renwick: I am quite happy to have the intervention—

Mrs. Campbell: No, no.

Mr. Renwick: I wanted to go on to my version of the so-called public defender, if that was the term?

Hon. Mr. Bales: I was just using it as a concept, that's all.

Mr. Renwick: A concept, yes.

I'm only going to give the example where I think it's very, very important. The general, antagonistic positions taken by the, say the treasurer of the law society on this question of the independence of the profession, always relates to the independence of the profession on the one hand and the "encroachment," I think Mr. Robbins said, of "stateism," or government.

That's the usual framework within which it is posed as a problem. Now, leaving aside the funding for a moment and without heading into a fight about the destruction of the profession as an independent profession—because I am not dreaming to encroach on that, I am trying to preserve it and yet at the same time make use of it, of that very independence, to right some of the, basically procedural, wrongs I see in the present system.

I tend to be a proceduralist as the first step of correcting the large number of problems. I think there is a role to be funded for something called a non-profit organization, which will have in its service full-time—using those dreadful words—salaried lawyers, and clerks and staff, who will deal with certain basic areas where the system to my mind is not dealing properly.

The ones which we all tend to treat in isolation are the traffic cases; the block or group or neighbourhood-concern question which comes up in fractions of bylaws, that kind of thing; where there is an infraction of the bylaw in the area. The old common law right of action in nuisances isn't very good, and the enforcement of the bylaws is time consuming and very difficult to get enforced properly.

You have the question of tenant representation on landlord applications in chambers before the county court judge—that kind of application. You have the problem of the cost of the undefended divorce action; and you have the crucial problem of the cases in the small claims courts.

Mr. Lawlor: How about the Liquor Control Act?

Mr. Renwick: And there are liquor control offences; there is the drunk court, which is kind of a disgrace.

But there are a sufficient number of those cases where people come in contact with the system, which are not basically criminal cases, but where expert assistance and advice is required. And where it should be a public facility to provide it.

Again, I think I have made the point clearly enough. The point which I had of course made a note of in my notes is that this was an ideal place for some of the funds. The interest on the lawyers' trust funds could be diverted for the purpose of providing this kind of legal advice.

In some cases it would deal completely with the case, but the person would leave the system and we would have the satisfaction of knowing he had been properly represented in the event.

On the other hand, if it was a matter where it moved out of that realm and should be dealt with in another area, then he could be referred out to the traditional legal aid system, as it's now become, with all the paraphernalia of the total independence in the adversary system at its best or worst, depending on how you look at it.

I think there should be some mechanism. I think the non-profit corporation, funded in some way. We fund the Legal Aid system, so I don't think we should consider that is an intrusion on the independence of that organization. With full-time, salaried lawyers it could deal with a wide range of matters.

I only want to use one illustration of the block, or the neighbourhood concept, which really bothered me. In my riding a fellow seems to think he has the right to have 35 or 40 dogs in a house on a street where the lots are very narrow, and it's very annoying.

With all of the bylaws, the building bylaws, the public health, the Humane Society and all the rest of it, the people on the street who are basically concerned about that couldn't afford a lawyer, if they could get one. The number of times one would have



had to have appeared on the remand of that case as an infraction of a bylaw precluded them from having individual representation, and the result has been negligible.

**Hon. Mr. Bales:** Yes, in that particular case, not going down to the details of it, I understand that while there was a difficult situation and one which was disturbing to the people in the area, there wasn't perhaps a real infraction of the bylaws.

**Mr. Renwick:** I'm sorry, this isn't the one that was in the paper. This is another one. There are fences in my riding for people who want to keep a large number of dogs.

**Mr. Singer:** Why don't you do something about it?

**Mrs. Campbell:** And pigeons, too.

**Mr. Renwick:** When I speak about an overview, the sort of thing I'm saying is that while I agree with the tentative steps being taken by the minister in the case of minor traffic offences, there is a range of other offences, and a range of perhaps other actions with civil law connotations, where people are not properly represented and can't afford the representation. The present Legal Aid system, in its discretionary aspect, because in many of these instances there's a discretionary problem about whether the certificate will issue, precludes the kind of ready access to the system and proper representation at the very stage where for a large number of the citizens this is the one and only time, or the few times, they come in contact with it. Some overview like that, I think, is very important to the solution of our problem.

**Hon. Mr. Bales:** In essence, Mr. Renwick, what you are saying is that theoretically the legal profession is there and with its training and so on is able to care for the individual needs of all people, if they will just ask the profession or retain a lawyer. But we all recognize that due to the pressure on the legal profession they have to be selective of their time. They don't take those kinds of cases. The individual perhaps feels it's not worthwhile that he should seek advice on all of these matters.

So what you're saying in essence is that there should be someone or some advice available to these people in those kinds of situations wherein they really won't obtain it otherwise.

**Mr. Renwick:** And representation, if necessary.

**Hon. Mr. Bales:** In the Legal Aid system there have been a number of changes and further approaches in this past year. The Hamilton proposal, for example, wherein they have established offices in several parts of the city of Hamilton to have advice available to people. They have a proposal, for example, that an individual may go to consult a lawyer without obtaining a certificate. He is free to go and obtain consultation and advice on a matter, and then determine after that if it needs to be pursued beyond that point. Legal Aid would pay up to certain amounts, whatever was reasonably required to give at least initial advice.

I think there have been a number of approaches on that. With the changes we see coming and the easing of the pressures on the budgets of Legal Aid, because I see that this year, I think we can move into other areas. The deputy and I, for example, spent an afternoon out at Parkdale at the clinic just to go out to see it and talk to the gentlemen in charge, the two of them, and the staff people. We wanted to see the kind of problems they were coping with in their own way with the support from York University and so on. I think, frankly, we both learned a great deal as to what they were doing and how they were doing it and the problems they were trying to meet in the area.

I see the point that you're making. It isn't satisfactory or sufficient just simply to say the legal profession will handle those if you just ask them. We recognize the limitations on them. I think that we can move substantially into other areas to give assistance to people and to fill a void that is there from a practical standpoint.

**Mr. Renwick:** May I just give one more example of perhaps the kind of thing where I think we have a real problem? It's not a development but a multi-residence complex in my riding—nothing to do with Ontario Housing at all. The situation there is that the tenants had the temerity to form a minor organization and to suggest to the landlord that it was about time he brought it up to housing standards level. They arranged for the building inspectors to come in and inspect, with the result that the landlord then got a long list of repairs which had to be done. He promptly retaliated on the proposition that he was going immediately to raise their rents.

I'm not suggesting for a moment there's a solution to every problem in the system I made. But there were people who needed



representation to deal with a landlord who had, from his point of view, presumably a legitimate position that he wanted to put—to do some negotiating in a minor sense, to try to solve the problem in an acceptable way. It seems to me that there is room in our system for the institutionalizing of some kind of a corporation for the provision of that service.

**Madam Chairman:** Have you further comments, Mr. Renwick?

**Mr. Renwick:** I have a number of others. I'd like to move on to some others if the members don't mind.

**Madam Chairman:** You have the floor. This is all to do with policy development, right?

**Mr. Renwick:** Yes.

**Madam Chairman:** Go ahead.

**Mrs. Campbell:** Madam Chairman, I did ask if I might intervene before he went onto something else; and I wondered if I might be invited to do that.

**Mr. Renwick:** You certainly may.

**Mr. Singer:** Gad! We're polite around here today.

**Mrs. Campbell:** Two things occurred to me during the course of this discussion. I'm wondering if the Attorney General has at any time had occasion really to appreciate the effect legally of our present situation as far as the public is concerned. I've had numbers of people talk to me over the last little while with reference to decisions of the court. Perhaps because they're made so hastily the problem is there, where a judge renders a decision and then under our law that decision can be changed by someone, presumably a clerk in another department. I don't know how they do it; it's an automatic thing.

Surely this matter should be a matter for the Attorney General himself. A judge's decision should be rendered on the basis of having sufficient evidence before him, so that no one else can, to the public at least, intervene and change his decision unilaterally. Is there some thought of doing something about that with this system of ours?

**Hon. Mr. Bales:** Mrs. Campbell, I am just trying to think of a situation you might have in mind. Is it, for example, a traffic offence in the impaired driving situation?

**Mrs. Campbell:** That's right, where the judge gives three months and then it's an

automatic six months if there is some damage to property, whether it's the person's property or somebody else's.

**Hon. Mr. Bales:** That, of course, as you know, was an amendment to the Criminal Code brought in last July.

**Mrs. Campbell:** I am aware of that.

**Hon. Mr. Bales:** I know that the federal Minister of Justice and the department there are giving some careful consideration to the effect and the impact that those amendments have had. He's voiced some concern to me at the way it's working out.

**Mrs. Campbell:** But surely if the judge had time to hear the case properly, he would render the decision which otherwise is really rendered by someone else. That is all I am asking.

**Hon. Mr. Bales:** There is a constitutional consideration as to who should have the authority. Is it a licensing authority or is it a criminal law authority?

**Mr. Singer:** There is one provincial judge who solved that problem very nicely: As soon as he convicts, he automatically suspends the licence for two years. He has solved the problem himself.

**Hon. Mr. Bales:** Well, there is a case in reference to Ross: We felt it was of a nature and importance that it was going to go to the Supreme Court of Canada in any event, so the ministry made application that the case should be dealt with directly at the Supreme Court of Canada level. That application was granted and it is going to be continued and dealt with there. The point you raised is important, but I don't think you meant to say that a clerk changed it—you know what I mean.

**Mrs. Campbell:** Yes, I know. But I am talking about the effect on the public.

**Hon. Mr. Bales:** The statute in effect is the one—

**Mrs. Campbell:** That's right, but to the public at large a clerk in an office has changed the judge's decision; and I don't think it is good for the public to have that attitude.

**Hon. Mr. Bales:** Well, it certainly brought a great deal of confusion into the whole driving charge situation and the licensing.

Mrs. Campbell: Secondly, and again I don't like to appear to be attacking the deputy—

Hon. Mr. Bales: I am sure you are not.

Mrs. Campbell: —but in answer to the questions put by Mr. Renwick, again we got the whole thrust of someone involved in the criminal law having a concern about people going to jail for rather light offences, if you want to put it that way; yet nowhere is there the thrust of the fact that we are putting men into jail daily in this province under the family court situation and nobody is concerned about it. I would like to point that out, even though we will be talking later about the Law Reform Commission.

Hon. Mr. Bales: No, I would oppose that, Mrs. Campbell, because that is not the attitude.

Mrs. Campbell: But that is the way it comes out in this committee.

Hon. Mr. Bales: Oh, no.

Mrs. Campbell: It isn't a matter of this being left up to the court; this is the only enforceable tool a judge has to deal with family matters. At all levels we worry about the criminal's rights and about not having him in jail; yet very often, on a matter of contempt, we stick these poor men in jail as the only way of enforcing a court order in a family situation. It doesn't make sense to me.

Hon. Mr. Bales: Do you mean in the reference to payments, maintenance orders and so on?

Mrs. Campbell: Yes. And so you are going to automatic enforcement.

Hon. Mr. Bales: No. But, after all, there is hardship. As you saw in many instances, there is a great deal of hardship on the person.

Mrs. Campbell: Oh, yes.

Hon. Mr. Bales: And you have raised several questions in the House of the Minister of Community and Social Services (Mr. Brunelle)—

Mrs. Campbell: Yes, for using these women to get money for his own department.

Hon. Mr. Bales: —about the problems the family have in maintaining the home; there is a lack of maintenance and assistance.

Mr. Renwick: Madam Chairman, another area on which I would like to spend just a

couple of minutes is the question of the ongoing work of policy development or if I may use the term, policy review, with respect to the operation of the Statutory Powers Procedure Act in particular, and the related group statutes that are involved in it.

It seems to me that, consciously or unconsciously, what we've done for practical purposes as a result of McRuer is to substitute this system of administrative appeal tribunals in all areas for an ombudsman, or as the member for Downsview would say, "a parliamentary commissioner" on the one hand, or any bill of rights in the Ontario sense on the other hand.

I know that is a pretty sweeping statement, but that appears to be the way in which we decided to deal with the question of civil rights within the legislative jurisdiction of the Province of Ontario. There are, therefore, any number of appeal tribunals.

I think there was thought given in the days of the original Minister of Financial and Commercial Affairs, Mr. Rowntree, that there shouldn't be a proliferation; that perhaps there should be a single appeal tribunal with ad hoc representation if particular trade requirements and other matters were involved. But basically we have set up an immense number of these appeal tribunals.

I want to suggest—and perhaps the experience is not long enough to do other than suggest—that this matter be looked into in the policy development field, as well as the nature of the decisions that are made and the procedures that are being followed in all these appeal tribunals. In this way we would ensure that they are functioning within the strict rules that are laid down, that people who appear before them are aware of their rights and are being informed of their rights, and that we are not sliding into a slipshod method of decision-making by administrative tribunals.

In the same area I think it is very important that we keep an accurate and close connection with those hearings that are held in camera, because the decision is the decision of the tribunal as to whether they be held in public or not. Mind you, there are certain guidelines to be put down to it.

Certainly the Ontario Racing Commission apparently didn't have any difficulty in making its decision that its hearing was to be held in camera. And instead of attacking the government, when I was asked by the press about the hearings of the Windsor Raceway, I made the mistake of indicating to them that I was quite satisfied that the commission



would be careful to adhere to the procedures of the Statutory Powers Procedure Act. That was more than wishful thinking; I think it probably did.

What I am suggesting is that in the field of policy development and in reviewing what is going on, there be some method of control by your ministry of the way in which these functions are discharged by these various tribunals, of which we now have an immense number—not just the ones that have been formed recently but a large number of other ones.

That leads me to the tag-end of my question. In getting what we call “management information control,” to what extent can we afford the luxury of the publication of decisions of boards, commissions, tribunals—even some sort of a selective publication of some of the decisions that are made—so that we can get some body of law and so that we can have a proper balance between management information control system efficiency and the basic purpose of the system, which is to do justice in situations where the individual comes into conflict with the regulations that are part of the government.

My ancillary question then is related to the extent to which the government feels it can assume the responsibility for publication of decisions, either in abbreviated form or in selective form, of the various bodies that are exercising these areas of decision in the province.

**Hon. Mr. Bales:** I think there is merit to it. In the past few months I have arranged that the Ontario Municipal Board decisions should be published. That was done briefly three or four or five years ago, but it only lasted for about a year. I made an arrangement that that could be done, and it's being done by the former chairman of the board, Mr. Kennedy, now that he has left and retired. And the Land Compensation Board decisions, for example, are now being published and released. I think we should do this sort of thing.

**Mr. Singer:** They are being done though, by a lawyer, or young lawyers, or a lawyer, as a benchler, who has a very substantial interest in land compensation, and is becoming quite a specialist in that regard. And if I had to hazard a guess, I would think that as he becomes a little older and his practice grows—and he is a very capable man and I am sure his practice will—this will be one of the first things to go, the initiative to do that kind of publication.

**Hon. Mr. Bales:** Right!

**Mr. Singer:** Perhaps he would have lost his idealism.

**Hon. Mr. Bales:** But the practice having been established, then I think the onus comes on us to see that it is continued. There was no interest in publishing, at least there was interest but not sufficient to get around to it, in reference to the Ontario Municipal Board report. So I felt we should make a start there and do that. I think the suggestion you make has merit. We'll look at that and see what ways you can do it, in a simple way, But—

**Mr. Renwick:** I really think it's essential, but I really also think it must be selective or it won't be properly used; and there is a selective function which I think your ministry can perform.

**Hon. Mr. Bales:** Yes. The Criminal Injuries Compensation Board awards, for example, are published in a brief synopsis. They publish them, almost every one of them are made available. They don't all reach the publications, but they are available.

**Mr. Singer:** Quite apart from the book occasionally it's very important, and Mr. Renwick makes another very good point. I recently had the experience, which will now be quite important and difficult, on behalf of a constituent of mine who had been attempting to get approval, I guess, from OHIP, for certain operational procedures, which were first refused by an official in the Department of Health, that's OHIP. Well, then in the Health Act, I think that's the statute—the exact name of it, I am not sure of—but in the statute, that we passed last year, two so-called appeal tribunals were established. The first one has a title which doesn't really indicate that it's an appeal tribunal, it's something like a review committee. I wrestled for about eight weeks trying to get something before them. I never did find out who sits on that review committee.

Eventually, after making quite a noise behind the scenes, I was told the review committee was going to meet—I still didn't know who constituted the committee. They did meet, but I was not allowed to attend, my constituent was not allowed to attend; in due course I got a letter saying they had carefully reviewed the matter and had come to the conclusion that the original decision was correct.

Somewhere along the line I think we are on our way either to a second committee,



which is an appeal tribunal. Hopefully the minister, who has indicated to me that he sees the righteousness of my constituent's cause, is going to do something that will avoid this additional step. But these are new procedures that seem to be working in a most mysterious and irregular fashion. The group, first, surely should be known; and if they are going to have a hearing they should have allowed some kind of representation. Their names should not be hidden.

The second group, which is the same group, they aren't yet seized of this particular problem. But that is the same group that is presently sitting in review on the eligibility of, I think, Dr. Sheraton, to be taken on the staff—

Hon. Mr. Bales: That's the hospital appeal.

Mr. Singer: Yes, of the North York General Hospital. And I think that—well, that group has been announced so that—

Hon. Mr. Bales: I think there are two different people.

Mr. Singer: Well, I am not quite sure. There is a gentleman named Tobias.

Hon. Mr. Bales: He is the chairman of the Hospital Privileges Appeal Board.

Mr. Singer: Yes, yes. Oh, and that is different from the board that Mr. Ryan, and—

Hon. Mr. Bales: Yes, yes.

Mr. Singer: —Frank McGee's wife, Moira McGee, are on. That's a different committee, is it?

Mr. Renwick: Yes; Gratton O'Leary's daughter.

Mr. Singer: Yes.

Mr. R. Haggerty (Welland South): Sounds like special privileges.

Mr. Singer: Yes. But it's very peculiar to try to figure out how these things all work.

Let's go back. I think the one that my constituent goes to is the one with Mr. Ryan and Mrs. McGee on it. The one that Dr. Sheraton is involved with is the one with Mr. Tobias as chairman.

Hon. Mr. Bales: That's correct.

Mr. Singer: Now that committee I find, interestingly enough—

Hon. Mr. Bales: They don't lead from one to the other. They are two different committees.

Mr. Singer: Yes; that committee sits for just three days a month, and they are sort of suspended. They sat there three days for the month of April.

Hon. Mr. Bales: Oh, I think that's not—

Mr. Singer: No, no; I think this is factual. And the hearing is not concluded; the next set of hearings are set for the month of June.

All of which is very peculiar, because if Dr. Sheraton has a problem, and obviously he thinks he has a problem, and if it is going to be adjudicated, and surely it is a part of justice that it be adjudicated upon reasonably quickly and without undue delays. Now, these delays have, in fact, taken place, and I think that is very unfair.

Hon. Mr. Bales: Well, can I try to assist on that?

Mr. Singer: Yes.

Hon. Mr. Bales: I don't know all of the workings of that committee and I have had no contact with them, but I do know that in their procedures they do have a counsel who presents the situation; on one side the hospital has representation, and the doctor has representation.

Mr. Singer: Yes.

Hon. Mr. Bales: One case recently was being dealt with, and unfortunately Mr. Bill Smith, whom we both know well, and who was appearing on behalf of one of the parties, died suddenly, before his submissions were complete.

Mr. Singer: I don't know if he was involved in the Sheraton case or not.

Hon. Mr. Bales: No; he was involved, I believe, in another case just prior to that. However, the information I have is that they don't automatically sit just three days a month, they have a schedule of hearings ahead and they deal with them, and they do have full information.

Mr. Singer: Yes! Well if the information I have is correct, and I have no reason to believe otherwise, but I don't know of my own knowledge, they did sit for three days in April and they are adjourned until something like three days in June—which I think is very, very unfair.

Hon. Mr. Bales: They are not sitting in May at all?

Mr. Singer: Apparently not on the Sheraton case, in any event. They are sitting a very,

very limited period in each month. It may be that they have three May days that are booked for something else that they may have booked in advance. That may be the explanation. But if we are going to have appeal tribunals, then surely they should sit the requisite number of days that are necessary to deal with the matters, or else we should get to some kind of common appeal committee with the seconding from time to time of experts in the particular field.

**Madam Chairman:** Mr. Singer, do you think this is a point you could raise under the social development clause say, because really this has nothing to do with policy development that I can see.

**Mr. Singer:** Well, no, no, no. This is not social development, no, this is policy development.

**Madam Chairman:** Well, tell me.

**Mr. Singer:** It's developing a common policy, Madam Chairman.

**Madam Chairman:** Well, it's pretty—

**Mr. Singer:** There's another difficulty here, again in common policy, which relates to the specific wording in the applicable statute, which I think is the Health Act, which was badly drafted. It seems to preclude the right of Dr. Sheraton to have gone to this body in any event, because he had never had an appointment. Now, that certainly is the logical English reading of that particular statutory provision. I gather the ministry prevailed upon the tribunal and upon counsel for the hospital, notwithstanding the unusual wording of the section of the statute, that they should go ahead and hear it anyway.

But that also raises an interesting question in my mind. The hearing is proceeding, and presumably in June or whenever else they finalize their hearing, they are going to come up with the decision. Is that decision going to be enforceable at all, because it went on, not as of right, but of grace, and the tribunal did something which the statute apparently doesn't allow, in that it had a hearing in this particular case. It went on with the consent of the solicitors for the hospital, again who wanted the record to show that they were there, but that the statute didn't say they should be there.

Supposing a decision comes out which somebody could well say, well you had no right to do this at all. Is Dr. Sheraton perhaps put in the position that, having gone through however long it takes to determine his prob-

lem, that somebody is then going to be able to say, tough luck, the statute didn't allow you to be here in the first place, and somebody is going to have to start all over again when and if the statute is amended.

To really underline what Mr. Renwick is saying, should there not be some kind of common wording and language and control within your department, even though the appeal relates to health matters, or OHIP matters, or licensing matters or what have you?

**Hon. Mr. Bales:** Whenever a hearing is set up there are uniform arrangements. Actually, under the Statutory Powers Procedure Act there was a good deal of uniformity developed in the various statutes and we are still correcting a number of those in the legislation committee.

**Mr. Singer:** This OHIP thing is brand new. In fact, until my constituent faced this problem it had never been used before. Everybody was going off in different directions when finally they got started three months after the complaint.

I found it most unusual—but in view of the unusual and difficult and somewhat embarrassing circumstances I didn't want to make a public fuss about it—that I wasn't given an opportunity to appear, nor was my constituent. Nor have I been able to ascertain—although I haven't assiduously pursued it—the names of the people who constitute this first group, when they hold their hearings and where they hold their hearings. That information was just never forthcoming.

**Hon. Mr. Bales:** I don't know the particulars of it, but Mr. Callaghan indicates it comes under the Judicial Review Act as well. You interest me in this situation; I will talk to my colleague about it.

**Mrs. Campbell:** May I ask if the same thing would apply to the welfare review board; and if it would be thought that you might see that their decisions were made available as well? Because that is, in essence, an appeal. Is Bud Price the chairman of that one?

**Mr. Pollock:** The Family Benefits Review Board?

**Mrs. Campbell:** Yes.

**Madam Chairman:** Mr. Renwick, do you have other points to take up?



Mr. Renwick: Yes, I do have. There are a number of isolated matters, and perhaps Mr. Pollock would deal with them briefly.

I raise this matter of Prudential Finance, not with a view to rehashing it, but assuming for the moment the creditors have been able to get before the court, as I understand it there still would have been an insuperable problem as to whether or not an agency such as the Securities Commission was suable in negligence. At least that is my understanding of the English Act upon which our Act, I think, is modelled.

I did notice that the court of appeal upheld a decision with respect to the OPP and the responsibility of the commissioner and two officers for failure to warn a citizen of a traffic hazard and in substance, as I recall it, held them liable in negligence, or in some version of negligence.

Mr. Callaghan: That is on appeal to the Supreme Court of Canada now.

Mr. Renwick: Oh, is it? I see. My question is whether, in the field of policy development, the question could be developed as to whether or not we are in a position that agencies of the Crown could be held liable in negligence, assuming for the moment that the initial step of making them suable was overcome? That is the first question.

May I give you my questions and then you can answer them? Perhaps it will save time.

I was concerned, Madam Chairman, that the minister's attitude toward Sunday closing and the breaches of it by large chain stores may have been affected by the decision in the Boardwalk case in Alberta, and that there has been some leniency introduced into the enforcement of the Lord's Day Act which permits large retailers to be open. That is a second question.

A third question is whether Mr. Pollock, in the field of policy development, is giving any consideration to the language problem in our courts, particularly in Metropolitan Toronto, with respect to accused persons—Italian, Portuguese, and other languages?

Mrs. Campbell: And native Indian people.

Mr. Renwick: A fourth point is, it would appear to me, in the field of policy development and this interest which the minister is developing in management information control, that perhaps a member of your ministry should be represented on the legal education council of the Law Society, which

is, as I understand it, studying the MacKinnon report on legal education with a view to re-doing it.

It would seem to me that the Law Society would not consider it an undue intrusion on its autonomy to have one representative on that legal education council, because there are real elements from a government point of view, and certainly from a legislative point of view, which I think the legal education system doesn't necessarily take into account now.

The next item I would like some comment about is the minister's consideration of giving public interest groups a right of action in matters related to ecology, which is the principal area of public concern now.

I would like to have policy development's view on the question of evidence illegally obtained by wiretapping and its admission as evidence to courts in the province.

I would like to have, as an additional comment, again on this management control system, whether or not it is possible for the minister's department to obtain on a daily basis from across the province the names of all person who have been held in custody beyond the period of one week, so that we don't periodically have one of these horrendous stories appearing in the press such as this one which appeared on New Year's Day: "Man Held Behind Bars 48 Days Before Getting Parole Hearing," and a number of similar incidents which constantly flare up. Would it be possible on a reporting system through the correctional services, for this minister in charge of the administration of justice to get a daily report of persons held beyond a certain stated period of time, so that a check could be made as to the reasons for the continuing incarceration of a person awaiting some kind of a trial?

Perhaps that is a sufficient list for the moment.

Hon. Mr. Bales: Can I work backwards?

Mr. Renwick: Yes.

Hon. Mr. Bales: Perhaps you will remind me of the various points as we go along.

Mr. Renwick: I think Mr. Pollock made a note of some of them.

Hon. Mr. Bales: First of all, on the last point, we don't have that information at the present time, but it is one of the points that we want to get to so that we will have that information readily available through Correc-



tional Services. I have to tell you we don't have it now.

Certainly I think they are being careful that people are not held in jail for an over-long period of time, but circumstances and isolated situations may well arise from time to time.

**Mr. Renwick:** Does the minister think that would likely be something that could be given top priority?

**Hon. Mr. Bales:** I think within the year we will have this kind of thing. With reference to wiretapping—

**Mr. Singer:** Before the minister goes on, would it be possible to adapt this new police communication system to this kind of information? Could there not be a regular feeding from various centres across Ontario?

**Hon. Mr. Bales:** That is really across the whole country. It is a suggestion, but I don't think that could be done as expeditiously as in other ways.

**Mr. Singer:** I have no idea of the technical difficulties, but it occurs to me that—

**Hon. Mr. Bales:** That means banking a great deal of information.

**Mr. Singer:** —some of that computer time might be vacant, perhaps at 3 o'clock in the morning or some time when it isn't operating, or 10 minutes could be set aside once a week to do this kind of reporting through the system.

**Hon. Mr. Bales:** I think there are other ways it could be done perhaps more expeditiously and more efficiently than that, because that is a federal group and I think there is so much input across the whole country into that that there may be difficulties.

The federal government has just recently introduced the wiretap legislation again. It is now introduced—I haven't seen the actual bill but I have been told that it is introduced again—that the decision should be with the judges as to whether there is wiretapping or not. Personally, I feel the Ontario position was right in that it should be in the hands of an elected person. That person would then be responsible to make a report to a body such as the Legislature and be responsible for the decisions that have been made. It's an onerous one, but it's one I think that should be done that way.

**Mr. Renwick:** I'm glad to hear the minister say that, because that certainly is the view which I've held for some time. Do you intend to make representation about that?

**Hon. Mr. Bales:** Yes. There will be discussions on this with the federal people. But in fairness to the federal government, it was they who, when we were speaking to Mr. Lang, were really in accord with having the elected person responsible. But it was the committee, the justice committee or whatever the technical name of the committee is of the House of Commons, which recommended that change; and the change was incorporated in the legislation. I understand the department now has accepted that.

**Mr. Renwick:** What will the effect of that bill be with respect to admissibility of evidence obtained by unlawful wire?

**Hon. Mr. Bales:** Well, there is a committee. Frank, you were just mentioning—

**Mr. Callaghan:** The Law Reform Commission have a project on law of evidence in the Province of Ontario, which relates to investigating and the question of the—

**Mr. Singer:** That's the Ontario.

**Mr. Callaghan:** Ontario is looking at this area of the law.

**Mr. Renwick:** Is it really a difficult problem? Isn't it the simple way to make the evidence in admissible? Or are there subtleties to it that I don't understand?

**Mr. Callaghan:** In what way?

**Mr. Renwick:** I understand the rule now in the Supreme Court of the United States is that evidence illegally obtained is inadmissible in criminal trials. Is that a correct general statement?

**Mr. Callaghan:** There are certain limitations to it now. They are beginning to qualify it. You're referring to the Miranda decision, and those American decisions. I think they are backing off those decisions.

The rule in Canada is that it's up to the judge to determine the admissibility of it. The manner in which it was obtained does not necessarily rule the evidence inadmissible. The wire-tapping provisions of the Criminal Code make it an offence to wiretap, but they don't go the next step and rule the evidence inadmissible. They leave that for the court to determine—the admissibility of it.

**Mr. Singer:** There's a jurisdictional problem, of course. The federal people can legislate for criminal law. And only the provinces have the right to legislate for civil matters.

**Mr. Callaghan:** That's right, yes.

**Mr. Singer:** But it's been my understanding that our general rule is that evidence, however gathered, if relevant, is admissible. And even if it's gathered illegally, if the court comes to the conclusion that it's relevant, then it is admissible.

In fact, in one royal commission—yes, I know of several cases.

**Mr. Lawlor:** Do you know of a case where the judge has ruled out evidence as being inadmissible because of the way in which it was obtained? I don't.

**Mr. Singer:** No; no, I don't. I don't.

**Mr. Callaghan:** Under the new Act, the evidence obtained illegally is inadmissible if you—

**Mr. Singer:** Under the new federal Act?

**Mr. Callaghan:** Under the new federal Act.

**Mr. Singer:** For criminal matters.

**Mr. Callaghan:** For criminal matters, but that doesn't affect provincial matters.

**Mr. Singer:** No. Well then I suppose really the question is are you contemplating the same kind of step? Because I remember a royal commission that was held in this province not too long ago to inquire into the conduct of two magistrates. It wasn't a court proceeding, but it certainly was conducted by a judge. The substantial evidence relating to the two gentlemen whose conduct was questioned was obtained by police wiretap. I sat in that courtroom and heard those wiretaps played back and it was quite a fascinating exercise. I was there, and it was on that basis the decision was made. Which I found a little abhorrent.

**Hon. Mr. Bales:** Another point you raised was the Alberta decision in reference to the Lord's Day Act. We've had a substantially larger number of requests lately for consent to prosecution.

I made a decision when I came to the ministry a year ago to deal with the truck traffic situation on highways, and I've been consenting to those right through—all cases, really, where it has not been an emergency situation or perishable goods or something of

that nature. Then, of course, they can apply to the transport commission to get a consent for Sunday use, or Sunday operation if they so wish.

I've noticed in recent months there has been an increase in the number of requests concerning store openings on Sundays, and I've consented to quite a substantial number of prosecutions in those instances. I think, as I said in the House, and I checked it afterwards, it's very close to 100 per cent of the requests that I've received I have consented to.

There is an argument, of course, that the fine really represents sort of a charge for opening for the day. But I think it is having an effect, generally. I'm anxious to see changes made in our present situation. This is under active consideration at the present time.

**Mr. Singer:** Well to what extent, if at all, are you paying any attention to that cumbersome and awkward report put out by the Law Reform Commission about a day of rest? It runs through hundreds of pages and really adds up to confusion.

**Hon. Mr. Bales:** But out of that I think there's substantial information. It's been of help to us.

**Mr. Singer:** Oh, historical information, yes; but in practical situations very limited.

**Hon. Mr. Bales:** It's been of help to us in developing proposals that are before our colleagues at the present time.

**Mr. Haggerty:** Is the minister suggesting that you are going to open Sunday shopping?

**Hon. Mr. Bales:** Not in my view, no.

**Mr. Haggerty:** Or are you going to try to curtail it?

**Hon. Mr. Bales:** In my view I think there should be a pause day.

**Mr. Renwick:** This is why I raised the question. I am concerned about two things. The court of appeal in Alberta at least had the temerity to kick the thing out, and I gather it's going to the Supreme Court of Canada.

**Hon. Mr. Bales:** I don't agree with their decision.

**Mr. Renwick:** I wonder whether or not you are going to intervene? The other thing which I'm concerned about is that one or more of the chain stores are going to try to

pressure a change in public opinion by something called a breach of the law, as we understand it. And that's what worries me about it.

**Mr. Haggerty:** They're moving in that direction now.

**Hon. Mr. Bales:** Well, a number have been doing this.

**Mr. Renwick:** Yes.

**Mr. Singer:** There are many chain stores in Metro that are open on Sundays.

**Hon. Mr. Bales:** That's right.

**Mr. Renwick:** Well, all I am saying is why should you be waiting in the face of that flagrant breach of the law, for someone to request permission to prosecute?

**Hon. Mr. Bales:** This statute requires that as the procedure when it's dealt with at the present time.

**Mr. Renwick:** Well, couldn't a police informant make the request to you? Couldn't the Ontario Provincial Police or the municipal city of Toronto police—

**Hon. Mr. Bales:** They lay a charge and it comes forward to us for consent to prosecute, because it's—

**Mr. Renwick:** Are you in a position to instruct them to lay charges?

**Hon. Mr. Bales:** No.

**Mr. Renwick:** Are you in a position to instruct them as to what the law is, by saying that you would like to receive the charges so that you could give your attention to it?

**Hon. Mr. Bales:** Well, that's interfering with them, really, in their operations.

**Mr. Haggerty:** In a sense you're working in a vacuum.

**Hon. Mr. Bales:** No, no!

**Mr. Haggerty:** You're sitting back doing nothing; very little.

**Hon. Mr. Bales:** No, no!

That's not so. This is a good discussion here, but let's not make those kind of statements, because they're not so.

**Mr. Haggerty:** Well, you know there's a big lobby by the large chain stores; such stores as Zellers and Towers.

**Hon. Mr. Bales:** To what; stay open?

**Mr. Haggerty:** They are trying to have their stores open all day Sunday.

**Hon. Mr. Bales:** On the contrary, I have seen, I think now, about five delegations. Included in those delegations have been a number of the large chains which were objecting. They put it backwards, if you want, by saying they were being forced to open on Sunday because of competition. But they were the large chains that were coming and saying we don't want to be open on Sunday.

**Mr. Haggerty:** I am thinking of stores, particularly in my area. There is one, Zellers, where I think they call it "pajama shopping" early on Sunday morning.

**Hon. Mr. Bales:** For example, there is one company here—I think it is called Shoppers Bazaar—which, as I have observed, tends to rent large vacant stores—sometimes Loblaw's and other stores that have been closed up—and they put in a variety of merchandise, usually clothing and things of that nature. They appear to just open up, use that location for a period of time, and then move on to another one.

I noticed one recently on Bayview Ave. It was open, I think, for four or five weeks, and always advertised "Open Sunday." I know they were prosecuted for it and I saw the other day that they had been convicted, but I also know that they have left that location. I understand that they move around from area to area.

**Mrs. Campbell:** There is one on Yonge St. just north of Eaton's.

**Mr. Haggerty:** One of the problems that I find, Madam Chairman, is that the personnel employed in the larger stores, such as Zellers and Towers, only work there on a part-time basis. They are working, let's say, for two or three days a week and they are never full-time employees and they have no rights under any legislation as to their hours of work, or when they should work, because they are classed only as temporary employees.

Maybe it shouldn't be under this minister's department, but I would like to see, perhaps under the Ministry of Labour, that consideration should be given to providing these persons with some protection under the Labour Standards Act.

**Madam Chairman:** Does this clean up the points for you, Mr. Renwick?



**Mr. Singer:** Before we leave that one. The minister sort of shied away from the thought that the suggestion might be made to the police that their vigilance be a little more thorough. I wonder why there was that shying away, because I can recall when we first started to talk here about offtrack betting shops, until there was a change in direction—which I believe emanated from Queen's Park—to the effect that offtrack betting shops were a bad thing; they operated almost without disturbance.

Now then, in the last year or year and a half the police have been very vigilant and have been watching these places. They have brought many cases to trial and the courts have dealt with them very strenuously, but for the first six or eight months or nearly a year of the discussion—not that we did have difficulty with the legislation—there was almost a complete avoidance of police surveillance of these shops.

I may be putting two and two together and adding it up to six, but I believe that when there was a change in direction, and when there was an announcement of what government policy might be, perhaps the police weren't directed but they had their ears reasonably close to the ground and realized what some of you fellows had in mind and then went about doing the work that they should have, with good effect.

Mr. Renwick's suggestion is that maybe a forceful statement—perhaps not a direction, just a statement—might catch the ears of those policemen who keep them close to the ground.

**Hon. Mr. Bales:** I don't have any knowledge that the police were directed in reference to the offtrack betting shops.

**Mr. Singer:** Oh, I wouldn't use the word "directed." I am just saying that somehow they got the feeling that they should do it.

**Mr. Renwick:** Osmosis!

**Hon. Mr. Bales:** I think when the new policy can be announced in reference to this, and I hope it is soon, it will have a good effect.

**Mr. Renwick:** You mean during this session?

**Hon. Mr. Bales:** I would hope so.

**Madam Chairman:** Is there anything further from you, Mr. Renwick?

**Mr. Renwick:** Yes, there was some more—

**Madam Chairman:** Do you have any objection, Mr. Lawlor?

**Mr. Lawlor:** Just one point if I may, on the judicial procedures Act.

**Hon. Mr. Bales:** On the which?

**Mr. Lawlor:** The judicial procedures!

**Hon. Mr. Bales:** The Statutory Powers Procedure Act?

**Mr. Lawlor:** The business of mandamus and certiorari and uniformity of procedure before administrative tribunals, and tribunals of all kinds; there is a whole host in the last volume of McRuer—I would think 1,721 different statutes—which he left aside, which is unfinished business for your department. The Liquor Licence Act and the Municipal Board part of it. In other words, there is a whole host of agencies which, because of their eminence and because of their complexity, he said should be dealt with in separate pieces of legislation. What are you doing about that?

**Hon. Mr. Bales:** Mr. Callaghan is just refreshing my memory of it. I was trying to recall where it was in McRuer's volumes.

**Mr. Lawlor:** It is the fourth volume, I think.

**Mr. Pollock:** In the fifth volume.

**Mr. Lawlor:** Fifth volume?

**Hon. Mr. Bales:** This is what Mr. Mundell in the ministry is still on, isn't it?

**Mr. Callaghan:** There are still approximately 100 statutes under review with a view to bringing them into accord with the recommendations. It is a long-term process, but over the next year or year and a half we will be producing another Statute Law Amendment Act bringing those statutes up to date.

**Mr. Lawlor:** Oh, the thick thing? You are not going to do them piecemeal, but one by one?

**Mr. Callaghan:** No. There are still about 100 statutes outstanding; they are still being reviewed.

**Hon. Mr. Bales:** We'll go through them all and then bring forward one change.

**Mr. Lawlor:** All at one crack.

**Mr. Renwick:** I think one of the other points that I commented on was a representative on that legal education council.

**Hon. Mr. Bales:** I met Mr. McKinnon and Mr. Robins and went over that report they provided to me late last fall. We have never been asked for a representative to be on that committee. It is a benchers' committee and I haven't pursued it other than discussing the matter with them generally.

**Mr. Renwick:** I forget the exact numbers but the composition of it was to be representatives of the profession and of the lay public and of certain other people. It would seem to me there would be a place for a representative from your department on that council.

The other question which I raised was group actions by public interest groups in these instances of alleged ecological damage.

**Hon. Mr. Bales:** That is really like the Sandbanks case.

**Mr. Renwick:** Such as the Sandbanks case.

**Hon. Mr. Bales:** An action was brought there by an individual on behalf of a group and their case was argued. The court did not agree with that particular—

**Mr. Renwick:** With respect to the Public Parks Act.

**Hon. Mr. Bales:** That is right.

**Mr. Renwick:** I may be wrong, but it would appear to me the only way in which a group action would be permissible in Ontario would be by legislation. I don't see any way in which it is going to devolve.

**Hon. Mr. Bales:** There is the problem of the rules, I think. The way they are set up the rules provide for an action to be brought by an individual.

**Mr. Renwick:** Yes, but as I say, I think it would be within the power of the Legislature to create a—

**Hon. Mr. Bales:** Oh, yes, after all it must be supreme.

**Mr. Renwick:** As a matter of policy development I would certainly recommend consideration be given to that kind of change. I think it is extremely important.

I know it runs contrary to the government policy as set out in the Environment Protection Act, but I think they are going to change that at some point.

As a corollary of that, you have got to give status to groups to bring actions.

**Hon. Mr. Bales:** We will have some research done on it.

**Mr. Renwick:** Another item which I mentioned was whether or not any study is being done on the language question in the courts.

**Hon. Mr. Bales:** I think we have a fairly broad service at the present time. I was dealing recently with a situation at the city hall—there are certain interpreters there for various languages—that related to one particular language: It served the purpose that I was able to go into it. There are certainly difficulties because of the number of courts, but the interpreters who were there to carry out the job were able—

**Mr. Renwick:** I am thinking of the reverse situation. I am thinking of the person being tried in his own tongue and the judge being put at the disadvantage of having to listen to the translation.

**Hon. Mr. Bales:** Are you advocating that?

**Mr. Renwick:** Am I advocating that? I am asking that it be examined to see whether or not it is possible. As I understand it there are a number of courts now held in the French language in Ontario. Am I correct or am I wrong?

**Hon. Mr. Bales:** No. The translation service is provided and the forms are being provided in the two languages in some instances, but we are not providing a dual language service in the courts.

**Mr. E. W. Martel (Sudbury East):** Couldn't you do that relatively easily?

**Hon. Mr. Bales:** No, it isn't relatively easy.

**Mr. Martel:** Well, when one takes a look at Ottawa and its translation and so on, could not the courts be provided with the same type of equipment?

**Hon. Mr. Bales:** Well, for example, one of the judges who was recently appointed to the family court in Ottawa in December or January—I have forgotten the exact date—

**Mrs. Campbell:** February, I think, wasn't it? Wasn't it effective in February?

**Hon. Mr. Bales:** I have forgotten. He was appointed but he took a certain time to be actually sworn in.

I was particularly looking for a person with bilingual qualifications and it took time to find a person, but that man, or that individual, I am sure would be very helpful, in



the Ottawa area family court particularly, because he can deal with people by speaking to them. To look to the stage where we are going to find judges and the lawyers and so on able to converse in a variety of languages, perhaps is the ideal. It may be the ideal, but it is not easy to find satisfactory judicial people at the present time.

I think the system we can offer of providing good interpreters, so that people can be adequately and properly understood and their cases put before the courts, is as far as I can go at the moment.

**Mr. Martel:** But that's why I asked; I have no knowledge of interpretation. Would it not be possible to have the equipment wherein you could supply instant translation as is done in the House of Commons? It would mean that you would have to have excellent translators, there is no doubt about it, but the person who in fact was on trial would understand—

**Hon. Mr. Bales:** Well, that's why we have got the interpreters now.

**Mr. Pollock:** It is being done now.

**Mr. Martel:** That's being done now? With equipment or just—

**Mr. Callaghan:** We provide interpreters in the courts where we can.

**Mr. Renwick:** I was thinking of—

**Hon. Mr. Bales:** You were thinking the other way around.

**Mr. Renwick:** I am thinking of the reverse situation as to whether or not some consideration could be given to providing for a trial of persons in their own language. Is that just an impossible task? I understand that there was an argument in the New Brunswick Court of Appeal on this question of whether a person has a right to be tried in his own language.

**Hon. Mr. Bales:** I think there are enough problems, Mr. Renwick, to try to do it in French and English. If we can accomplish that, I think we will have gone a long way. I wouldn't want to attempt to do something more at this time, looking at the risks of doing it rather poorly. I think we do it much better, having good interpreters interpreting for the person before the court and keeping it unified in that way.

**Mr. Martel:** How widespread is this? It is just Ottawa, as I understand it. Is that all?

The bilingual translation, French-English, is primarily in and around Ottawa?

**Mrs. Campbell:** We have it in Toronto.

**Hon. Mr. Bales:** In Toronto there is a variety of languages and interpreters. Portuguese is the one I was recently dealing with.

**Mr. Callaghan:** I think we have the capacity to interpret in 36 languages in Toronto. But there is a difference between a full trial in the chosen language, which I think Mr. Renwick is talking about, and just interpreting for a person who doesn't understand the English language. We do the second, we don't do the first.

**Mrs. Campbell:** Madam Chairman, I would urge caution on that unless your judges are also familiar with the language. I think you could get a greater injustice in many ways. So much depends on who wants it and so on.

One of the things I would like to know is, why is there a policy that in effect you pay an interpreter only until about 3 o'clock in the afternoon, and after that you have to go to the Crown to get authority to pay if you sit through, as we did, until 10:30 at night? Why isn't there an hourly rate that is followed? It doesn't seem to me that it's quite right, when you are dealing with these interpreters and people who are needing their services, that the cutoff point should be roughly at—I don't know whether it's 3 or 3:30—

**Hon. Mr. Bales:** We pay them on an hourly rate, Mrs. Campbell, but I think you have to take into consideration that it's work that requires very careful concentration because much depends on the assistance that's being given to the individual. After so many hours of a day, doing that kind of work, we are all human, we tire, and their efficiency may be affected. But they are paid on an hourly rate basis.

**Mrs. Campbell:** Well, you would never get through the lists in Toronto if you didn't run them this way; you would just be putting off with adjournments. If you hold them there, it does seem to me they should be paid.

**Hon. Mr. Bales:** I know that your courts did sit—

**Mrs. Campbell:** Until 10:30, 9 o'clock, 9:30, and those interpreters were there and we were not allowed even to give them carfare or to see them home at night. It is true we got some help from the Crown.



**Hon. Mr. Bales:** That's right. He has authority.

**Mrs. Campbell:** He has authority, but why should it be that way?

**Hon. Mr. Bales:** It is very difficult to make a uniform policy unless you have somebody there responsible for carrying it out, and that's why the discretion is given to the Crown.

**Mrs. Campbell:** It just seems to me that if you have an hourly rate it's not difficult to follow right across the province. I would think you probably have Crowns in various places making different decisions.

**Hon. Mr. Bales:** Well, they have the same authority, within limits, and the limits are set for them, but it is a generous limit.

**Madam Chairman:** Do you wish to raise other points, Mr. Renwick?

**Mr. Renwick:** May I come back to tidy up the earlier ones that I had asked, on the question of negligence of agencies and commissions of the Crown?

**Hon. Mr. Bales:** Well, to be frank, I am not sure this does depend on the statute as far as I am aware of it. Perhaps there is more information on it.

**Mr. Callaghan:** Whether or not an agency is a Crown agency and is sueable as such, depends upon the wording of the statute. The Prudential case established that the Ontario Securities Commission was not liable on negligence. There are cases which—

**Mr. Renwick:** I understood that it—

**Mr. Callaghan:** It wasn't sueable so the action or the statement of claim was dismissed for having no reasonable cause under the rules. The Ontario Water Resources Commission was ruled to be not sueable.

**Mr. Pollock:** Yes, it was sueable.

**Hon. Mr. Bales:** The experts have a difference of opinion.

**Mr. Callaghan:** We argued the OWRC case together and we just disagree as to how it resulted.

**Hon. Mr. Bales:** We believe in a certain degree of independence of mind.

**Mr. Callaghan:** Well, anyway, we'll get the case out because it was a decision of the Court of Appeal. The point is that the wording in the statute will determine whether or

not the agency is sueable. Some agencies are, under the Proceedings against the Crown Act, and some of them aren't.

**Mr. Renwick:** Yes, and I understand under the Proceedings against the Crown Act, if say, the statute did not preclude it from being sued—

**Hon. Mr. Bales:** That is right.

**Mr. Renwick:**—that even if it were recognized as being sueable there would still be a substantive question as to whether or not it was sueable in negligence.

**Mr. Pollock:** Well, only on the point of whether or not the type of activity it was engaged in was aground of negligence—whether it owed a duty, in other words. If that is what you are talking about, you are correct.

**Mr. Renwick:** I understand that in England, even if you can get before the court, you cannot sue in negligence even if you have the ground to sue in negligence.

**Mr. Pollock:** No, I don't think that is right. That is not my understanding of it.

**Mr. Renwick:** I guess as lawyers we agree to disagree. That was my reading. I will look it up some time as a matter of esoteric interest.

I take it that you are not going to make the Ontario Police Commission liable in negligence, Mr. Minister?

**Hon. Mr. Bales:** No.

**Mr. Renwick:** I didn't think so. I think that covers those items. I have some other matters, but I will leave them for now.

**Mr. Singer:** I have another point in regard to this matter and that relates to automobile negligence. I pressed this with the Provincial Secretary. Unfortunately, I got very little satisfaction, nor even very little lead as to what his thinking might be.

**Hon. Mr. Bales:** I am sorry, I didn't hear.

**Mr. Singer:** Automobile negligence. I pressed it before the Provincial Secretary for Justice, and our exchange was not very satisfactory. I couldn't get at what he was thinking, other than it was a problem.

The sort of thing that comes to mind is in an intersection accident where—

**Hon. Mr. Bales:** Oh, this is the case you mentioned to me?

**Mr. Singer:** Yes.

**Hon. Mr. Bales:** You are not dealing with that particular case but with situations which arise out of it.

**Mr. Singer:** With a situation that arises out of it. It is an intersection accident where one car has four people in it and the other car has four people in it and the drivers are not the owners; so you start off with six potential litigants on either side. There is dispute about the liability. There are claims and counterclaims; some of them are county court, some of them are supreme court. One that I am involved in now seems to have resulted in about seven different actions being commenced; again, I say some in the supreme court and some in the county court. Each one of the litigants has a different lawyer. Some have two lawyers, one, the insurance company lawyer and the second their own lawyer who is acting so far as their personal damage claim is concerned. What the courts are being called on to try is one accident which took place in the fraction of a second and to assess degrees of negligence and degrees of fault; and then subsequently degrees of damage.

Granted that matters like a decision having been made in one court is going to be taken judicial recognition of in another court—the matter will already have been decided perhaps—it seems to me an awful waste of the public substance that we get into such a multitude of litigation and we get so many lawyers acting independently. Very often we don't seem, except after many years of delay, to get any answer at all. Very often, as McRuer has said so many times, the effort to assess several years after the event what happened in the fraction of a second in a particular accident is almost impossible.

I would like to see some kind of thinking here in Ontario.

**Mr. Lawlor:** Government-mandatory-no-fault insurance.

**Mr. Singer:** No, that isn't the answer.

**Mr. Martel:** Certainly, it is the only answer.

**Mr. Singer:** No. I would like to see some kind of system here in Ontario, whereby when there is such an accident there can be some common method of determining liability and assessing. In fact, in the case I am involved in, one poor injured person unfortunately didn't arrive in the lawyer's office until a week after the limitation period was over. Now six or eight of them who were involved

in the same accident are going to have their actions tried. The one poor fellow who came in two weeks late is completely out of luck.

That isn't fair and it isn't reasonable. Is there any thinking at all that has been going on within the ministry on this matter.

**Hon. Mr. Bales:** You mean two weeks beyond a year?

**Mr. Singer:** Two weeks beyond a year; he was just slow. Even though all his friends were litigating backwards and forwards and claiming and counterclaiming, he arrived at a lawyer's office two weeks after the limitation period had expired and, of course, he had no cause of action. The other seven are eventually going to have their claims adjudicated some year soon.

**Mr. Parrott:** Do you think a year isn't long enough?

**Mr. Singer:** No, that is not the point. I say that if there is this accident involving 10 different people and their claims and disputes, then in the case of one person who just didn't happen to get before a lawyer in time to get a writ issued, it isn't fair that he be excluded, when all the other people in exactly the same circumstances, his fellow passengers, are going to have it adjudicated because they were aware somehow that the litigation was going on.

**Mrs. Campbell:** How much paternalism can you get?

**Mr. Parrott:** Yes.

**Mrs. Campbell:** Madam Chairman, I don't know about this case, but one case I am concerned about is the question of suing municipalities. There, I think, the limitation period is just awful to get notice to sue a municipality where somebody has been badly hurt. What is it, a week or 10 days or something like that? If they are badly hurt, they very often don't get around to it. I think that is really a desperate issue.

**Mr. Lawlor:** It is where you are suing hospitals. Why they will have to perform an extra operation and anaesthetize you for six weeks so that your time to take one will run out.

**Mrs. Campbell:** That is right.

**Mr. Singer:** You are a little behind the time, sir. It is now two years for hospitals and one year for doctors. It used to be six months for hospitals and one year for doctors. Why you don't have a uniform limita-



tion, that is another argument. But let us try the negligence one on for size before the limitation one.

**Mr. Lawlor:** How can an intelligent fellow like you be such a free enterpriser?

**Hon. Mr. Bales:** The chairman feels we are straying beyond the limitations of policy development here.

Interjections by hon. members.

**Mr. Martel:** In the fullness of time both you parties will come to the recognition of the need, as Massachusetts now has.

**Mr. Lawlor:** He has just got an ancestral hangup of some sort. That is all.

**Mr. Martel:** That is all. It is just a matter of time.

**Mon. Mr. Bales:** Mr. Singer wasn't really dealing with the problem of limitations.

**Mr. Singer:** Limitation is another thing.

**Hon. Mr. Bales:** Your point was the multiplicity of the actions. That is what you are getting at.

**Mr. Singer:** The waste of the public substance to produce a result that is inaccurate at best.

**Hon. Mr. Bales:** When you think of the case that you referred to and think of the recent situation on Highway 400 in March—

**Mr. Singer:** Oh, that multiplies it 51 times.

**Hon. Mr. Bales:** It multiplies the whole thing. There is no complete answer to it. If we can, we should change the rules and simplify, not only the rules in reference to this kind of action but to so many actions. In my view they should be much simpler. I think we tie ourselves up in all of the procedures, in time limits and all other things we have to go through. Particularly in reference to automobile accidents, I think there should be some more easy and more uniform way of assessing the damage. The liability is one thing; the damages are a different thing.

**Mr. Clement** has a study on at the present time in reference to insurance. I am not sure where that leads or whether it will provide guidelines and directions as to how the damages can be assessed. I think as far as the multiplicity of actions are concerned I am hopeful we can find ways whereby actions before the courts can be drastically simpli-

fied. I don't know what other suggestions you have got on the thing. I would be interested in your recommendations or your proposals.

**Mr. Singer:** I am of a mood with McRuer. There are several McRuer speeches along this line. He made them several years ago, that we have some kind of tribunal that assesses the quantum of injury. He became very frustrated with trying to assess the quantum of negligence. We have this weird concept of gross negligence. Gross negligence is as long as the judge's foot on a particular day, so far as what it means. I don't know that anybody knows what it means. I have been reading cases about gross negligence—

**Hon. Mr. Bales:** For 20 years.

**Mr. Singer:** —until I am absolutely and thoroughly confused, except I am going to argue that undoubtedly the man that we are suing committed gross negligence and it must be obvious to any intelligent judge.

It is a phoney concept. I think our ability to assess with any reasonable degree of accuracy what happened in a fraction of a second years after the event just isn't there any more.

**Hon. Mr. Bales:** In other words, you think that perhaps the solution is to take it out of the courts and put it into a tribunal?

**Mr. Singer:** I think it is, and to do away with the negligence concept. We have got all these health plans. At least settle to a certain level, and if they want to go to court after that over and above that, then let them go to court after that.

**Hon. Mr. Bales:** You assess damages only—and I am not quarrelling on that basis?

**Mr. Singer:** Yes, on the same theory that eventually brought about Workmen's Compensation. That was the trigger for Workmen's Compensation, because it became impossible for the workmen to fight the big companies and claim injuries on the job. It was difficult for him to get lawyers to represent him because, unless the lawyer had a sure fire case, he was not anxious to take on the big railroad company. And eventually the public concern became such that we evolved, many, many years ago, a system of Workmen's Compensation.

**Mr. Lawlor:** I suggest that when you get to that state, the insurance companies themselves will withdraw from the field. So let's do what you want to do. That's great.



**Mr. Singer:** Well just look at one of these. The one the Attorney General mentions is perhaps even more dramatic than the one I am involved in, because there are many more people involved. And I'll bet by the time you get that one down, unless the insurance companies are determined to settle, if you ever get that one down to trial you will have 150 lawyers representing 80 litigants. It's silly.

**Hon. Mr. Bales:** Well, I think it's something to give thought to, the whole aspect of it, mind you. It's part of a political philosophy, as to how far you are going to go, in taking away the rights of the individual and whether there is another right, separate and apart from it, that we have to deal with.

**Madam Chairman:** Now, Mr. Minister and committee members, we have examined a very great range of points within the field of policy development, some of which I think were entirely pertinent, but others were just a little far out.

**Mr. Lawlor:** Well I wish they had never invented that particular heading.

**Hon. Mr. Bales:** It's been very helpful.

**Madam Chairman:** Well it was a good chat session, in which everybody spoke in a very chatty discussion. Well now, is there anything further to raise, or is this item ready to be carried?

**Mr. Martel:** I should like to ask the minister one question on the limitation period. There seems to be a great deal of difference in, as Mrs. Campbell mentioned, bringing an action against a municipality. I understand it's three months. And I am no lawyer, by the way, so you will have to forgive the way I am going to phrase some of this. Six months against a policeman, six months against a dentist. I don't know how a dentist didn't get the same break as the doctor, who now has one year.

**Mr. Parrott:** Poor lobby!

**Mr. Martel:** Poor lobby? And as high as six years against a guest injured in your own home. Why should it be such a wide range of time differences in which actions could be started?

**Hon. Mr. Bales:** Well, you have to give the parties an opportunity to investigate. For example, the one involving the municipalities. The municipality must have an opportunity to investigate—three months limitation there.

**Mrs. Campbell:** But you have to file notice within 10 days, don't you? They may be unconscious and off the mark.

**Hon. Mr. Bales:** It could be. In most cases somebody else would give the notice, but nevertheless there is that difficulty. The year's limitation on many actions, I think, is reasonable. Mr. Singer referred to one—some poor fellow that was two weeks late, but really 54 weeks after a matter, after an occurrence I think is—

**Mr. Singer:** If nobody had heard anything about that accident, fine. But there are eight cases presently before the courts dealing with the same accident in which he was involved, and he's two weeks past, and his claim isn't going to be adjudicated, but everybody else's is.

**Mr. Martel:** But the only thing I am thinking about is, as a layman, why wouldn't they be the same? I mean, let's say a year.

**Hon. Mr. Bales:** They are different types of circumstances.

**Mr. Singer:** That's no answer.

**Hon. Mr. Bales:** Well, they are. They are different types of circumstances.

**Mr. Martel:** Well, the difference between a doctor and a—

**Mr. Singer:** Well, all right, then; what logic is there in having the recent change in actions against hospitals from six months up to two years, when doctors still stay at one year? Why is it suddenly found reasonable to extend the limitation period to sue a hospital four times, but to leave the—

**Hon. Mr. Bales:** I am not backtracking, but let me say this. I am not against a greater uniformity in some of these things, or because we change one we shouldn't be looking at others. I am not saying that. But in a number of instances, I don't think they should be uniform periods of time, because there are certain differences in circumstances. I think in the municipality, for example, if you've got a road problem, or a sidewalk situation, where a person trips over it, there has been negligence, it hasn't been fixed. It better be fixed, other people are going to be caught in that same kind of situation.

**Mr. Singer:** But then you are attributing, and unfairly, to the injured individual some kind of knowledge that he hasn't got—that he is aware of the municipal limitation period. He has no awareness of it at all.

**Hon. Mr. Bales:** Well, I think you've got to. You know, we've got to have an understanding of the law. Look at the number of cases of Legal Aid. There was a greater argument, or greater validity to that argument, a few years ago before people could get legal assistance.

**Mrs. Campbell:** But they have to know they have a right before they go to Legal Aid. They have to know what their limitation period is.

**Hon. Mr. Bales:** It seems to me that many people assume they have a right, and do something about it.

**Mrs. Campbell:** All I can say is that in my experience with municipal government, time and time again, the people were hospitalized, the families were concerned about their condition, and they were too late in giving notice of the incident. And I don't think that is proper.

**Mr. Singer:** You have a Law Reform report dealing with uniformity of limitation periods, but it's another one that is gathering dust in some cubby-hole. Are we going to get some uniformity? I don't say there shouldn't be a limitation period. But at least if there was some uniformity, you would be doing a great service to the community.

**Hon. Mr. Bales:** Yes, I agree. I know they think there are problems with it, but we started back over those Law Reform Commission reports to review them, as to which ones have been implemented, which ones have not; and if not, why not. And that is being done now.

**Mr. Singer:** I felt very pleased one day, I had convinced a one-time Minister of Health there was sense in extending the limitation period to sue a hospital, and the limitation period for suing a doctor should be the same. Well, he went half way; as I say, we've got two years for hospitals, instead of six months, and one year for doctors.

**Mrs. Campbell:** You got the art of the possible, the next time around you get the impossible.

**Mr. Singer:** In the meantime it's three Ministers of Health later.

**Hon. Mr. Bales:** We'll have some answers on the Law Reform Commission report before the year is out.

**Madam Chairman:** Will Item 3 carry?

Item 3 agreed to.

Item 4, law research, Ontario Law Reform Commission. Who would like to speak?

**Mrs. Campbell:** I would like to speak.

**Madam Chairman:** Mrs. Campbell; Mr. Lawlor.

**Mrs. Campbell:** One of the things that concerns me about this, is that this is the one case where we've got law research, that one would think would be terribly important, and you've seen, if I am reading the programme properly, it seems to be the one case where you have dropped your estimates. We have increased the estimates for all the administrative functions, and this one, which has surely a tremendous bearing on the people of the province, seems not to be followed through; and we all know that there is a good body of law that is urgently in need of reform.

I would like to know, apart from that comment, which bothers me because it seems to me that budgeting always indicates priorities or programmes and ought to make them clear; priority here doesn't seem to be all that clear. I would like to know what authority this ministry has to direct priorities to the Law Reform Commission, and why it is that we have been dealing with what I might call somewhat commercial statutes from the Law Reform Commission without seeing a really clear-cut case of policy in the family law section.

We were advised that the family law report would be before the ministry in January of this year at the latest. I take it that hasn't come about. Do you set a priority, Mr. Minister; and if you do, what is your priority in this case?

**Hon. Mr. Bales:** I feel the Law Reform Commission must have a high degree of autonomy in the work that it does. They have developed their budget, brought it forward to us and the budget as set out in the estimates this year represents their reasonable requests.

If there are more projects, and each one is dealt with and funded separately, than they contemplate at this time, or at least when the budgets are developed, and they were being developed last summer, it goes on through a refinement area for some months and then we go back to management board and I ask for more money to carry them out.



The Law Reform Commission has spent two years on the study of the administration of courts. Over that period of time they have done other things, but they are concentrating at the present time and have been since the last fall, on that particular report.

In a meeting I had with them we discussed the whole administration of the courts report and I felt that having gone on for two years, we needed that advice, we needed their views on it so that we can get on with the proposals. They had thought it would be finished by the end of the year, but they encountered more difficulties than they anticipated in reaching their conclusions and hence, as I said yesterday, they decided earlier in the year to produce it in three volumes. I am told that the family court study is very substantially complete and it is in the position where they can finalize their recommendations, but it has not—

Mr. Lawlor: What was that?

Mr. Callaghan: Family law.

Hon. Mr. Bales: Family law—but it has not been done as yet. It will be done, I am assured, as soon as the administration of the court study is finalized.

It happens, because of the nature of the work, that a number of the same people have been involved in the same studies, and I think that has had an effect. They do arrange for a number of people outside, experts in particular fields, to be retained to carry on certain research into various areas so that they are not putting the burden on the same people all the time to do each study, but in this particular area there has been a good deal of dual work involved. The same pressures on the same people.

Mrs. Campbell: Madam Chairman, does administration really come before the development of the philosophy of government, if you like on the whole matter and range of family law? Is administration the priority or is the whole philosophy a priority, which it would be in my case? Are they going to run into increasing problems, to delay this matter, with the ongoing work of the federal Law Reform Commission which is now into the family court field.

I don't understand the jurisdictional question, but when are we going to get into the 20th century in this very delicate field of law?

Hon. Mr. Bales: It isn't simply the administration of the courts, it is the efficiency of the

courts in dealing with particular problems, and that has a great effect on the public.

On the family court situation, I know that they have done a tremendous amount of work. Last year there was a, call it a seminar, whether it had another technical name doesn't matter, in western Canada which the people on the commission attended. In February of this year, because of their background and knowledge and the study they were undertaking, they were invited to another one in Quebec, again of people across the country.

There were particular studies and group meetings which were of some significance because the federal study is also going on. I think you do need to have a sharing of views among people from all provinces. Mr. Leal and others were at that meeting in Quebec and found it helpful, but found that our studies were further advanced than many of those in other places. In a discussion not too long ago he indicated that the family law study is well along.

It is a case, as I said before, of finalizing the other one, and then finalizing the family law—not giving them different priorities. There will be many aspects of the family law situation in the administration of justice, and they will tie them in together.

Mrs. Campbell: For instance, what are they doing or have you any idea what they are doing, about custody matters? You talk about trying to cut down court time, and yet we have this terrible fallacy of people having—

Hon. Mr. Bales: Not trying to!

Mrs. Campbell: —having to go to two or three different courts to resolve one single bundle of family problems.

Hon. Mr. Bales: Right!

Mrs. Campbell: Surely, that is ridiculous.

Hon. Mr. Bales: Let me make it clear I wasn't trying to cut down court time in the way of harming the individual.

Mrs. Campbell: No, no; the clutter of the courts.

Hon. Mr. Bales: There are certain areas where you can and certain areas where you cannot. There is a great federal aspect in this problem too, as it affects family courts; the divorce situation, and so on. It is not going to be easy to finalize the matter but I think that their study should be looking ahead. I have urged them always to look ahead. Not



confine it to the situation just as it is today, but what kind of a situation or what kind of recommendations can be made to improve the thing in the broader aspect.

**Mrs. Campbell:** But do we realize that in the Supreme Court today, where a Master deals with an interim order—there was a case just recently where he refused to see an 11-year-old child, it ended up in a wardship court, for obvious reasons—these things are ongoing. Children are being damaged because of the lack of a developed philosophy.

Surely this is the place, if we are going to rely on them, surely that should have priority if we want to keep families functioning in some way or another.

**Hon. Mr. Bales:** We must have.

**Mrs. Campbell:** And yet we get all of the commercial statutes before us, and not a breath more about this. You aren't going to get perfection. You will probably have flaws in any proposed legislation which you will find and correct, but surely we are not going to wait for nirvana or something before it comes.

Can you give us an estimate as to when you expect this aspect of the law will be before you from the Law Reform Commission?

**Hon. Mr. Bales:** I anticipate that part will be before us in the summer, and I hope that we can proceed with it directly after that. Certainly as far as we are concerned, once we receive it, it will have top priority.

**Mr. Martel:** Can I ask a question of the minister with respect to this? How much discussion, Mr. Minister, goes on between your ministry and the Ministry of Social and Community Services in relation to this particular field, in terms of what you do with young children.

The reason I ask is that recently a judge in the family court came to me—he is absolutely a superb guy, but just so fed up. He just doesn't know what to do any more, he tells me. What is available?

**Mrs. Campbell:** Tell him to do what I did!

**Mr. Martel:** What is available? There just doesn't seem to be anything!

I speak as a lay person. I don't know what the laws are with respect to the family courts, but he is frustrated by his job in the family courts because he really says he doesn't have the tools with which to help.

It is easy to put a kid in a reform school, but apparently the tools beyond that aren't

there. As a critic of Social and Community Services, I don't see them delivering the type of services and the family counselling that would help to keep the family a unified group.

I just don't know if there is any dialogue between those two ministries or if they have looked at it in terms of trying to keep the family together—

**Mrs. Campbell:** This is exactly what I was referring to.

**Mr. Martel:** I read your colleague's report on Community and Social Services, and all the glowing number of counsellors they have to help families. When you start to pin them down and you say: "Well, how many marriage counsellors do you have, and how many—"

**Madam Chairman:** Mr. Martel, this is far off, you know.

**Mr. Martel:** No, no; it is right on!

**Madam Chairman:** No, I am sorry—

**Mr. Martel:** The two have got to work together, and they are working apart. There are no counsellors in that department right across the province to resolve the problem of wards. Where in fact does the family court judge send families which are having problems?

**Madam Chairman:** You are talking about a subject which is in two votes along from this, Mr. Martel.

**Mr. Martel:** I am speaking on exactly what the member for St. George spoke about.

**Madam Chairman:** I think you are taking it one step further.

**Mr. Martel:** You like to put it in nice little boxes, but it is just not that simple, Madam Chairman.

**Madam Chairman:** Well, I think it is a subject that can be discussed and developed in another vote.

**Mr. Martel:** You should have cut the former speaker off.

**Madam Chairman:** I know.

**Mrs. Campbell:** No, with respect; I was asking about the Law Reform Commission.

**Madam Chairman:** She was making a point, you have taken the point into a greater

detail, which is much farther away from the subject that we are dealing with now.

**Mr. Lawlor:** Madam Chairman, I object on behalf of my colleague. Have you seen the supplies of great volumes on family law, which cover certainly every conceivable aspect of this matter. This was issued by the Law Reform Commission. We are talking about legal research. I think it is just as legitimate a topic here as six votes on.

I think my colleague ought to be able to speak on this matter, to elicit whatever answer he may be able to get.

**Madam Chairman:** You haven't any other points you would like to make, Mrs. Campbell?

**Mr. Martel:** I'd just like to know if I can continue, Madam Chairman, for a few more moments. I don't intend to pursue it at great length except to say that for four years I have asked—

**Madam Chairman:** All right, Mr. Martel, proceed. But what I am saying to you is that you are on a point which is a point and a detail arising out of the point that Mrs. Campbell was making. This is not a point in itself which relates directly to the Law Reform Commission.

**Mr. Martel:** I won't bring it up again. I think you are talking about the official guardian; and I am not talking about that.

**Mr. Lawlor:** May I interject just for a moment, Madam Chairman, on a point of order?

**Hon. Mr. Bales:** Madam Chairman, can I assist here?

**Mr. Lawlor:** On a point of order. I am not going to take great exception right now, but there is a quorum for this committee, Madam Chairman; and if you are going to cut us off, I am going to make you stick to your duties and see that the quorum is here. I don't mind going on at the present time, because it is close to 6 o'clock, but let us have a quorum this evening.

**Madam Chairman:** Right. Proceed, Mr. Martel.

**Hon. Mr. Bales:** Can I be of assistance? The Chairman does have a difficult role in this; we appreciate that. But we were cognizant of a need for better communications in the related ministries, particularly in this area. Through the deputies we have set up

a committee within the ministries of Health and Community and Social Services, bringing the chief judge into that to discuss and deal with mutual problems as they affect this group.

For example, Mrs. Campbell recently asked a question of Mr. Brunelle in the House about maintenance support and so on. Prior to that time the deputy had been in communication with the deputy in that ministry as to how we could deal with this to try to alleviate the problems faced by a number of single-parent families in getting adequate support.

In certain of the western provinces, for example, they tried to overcome the situation by a contract arrangement. That may not be the ideal, but we have some other suggestions; at least the deputy wanted to deal with the other ministries as to how we could come up with a better system to cope with the problem the people had.

That is the kind of communication we have established with the other ministries through this committee. That is not an exclusive reason for it, but it is one of a number of matters they are trying to resolve to find better ways of improving its assistance, and what I call its efficiency; that is improving it for the individuals.

**Mrs. Campbell:** May I ask, am I still meeting with the Deputy Attorney General and the people from the other committee in Mr. Brunelle's ministry on Friday morning to discuss this matter?

**Hon. Mr. Bales:** Did you make arrangements?

**Mrs. Campbell:** If I'm not, I am going to discuss it here under one vote or another.

**Hon. Mr. Bales:** Did you make arrangements for such a meeting?

**Mrs. Campbell:** Mr. Brunelle made the arrangements and advised me, and it was put off because the deputy couldn't be there.

**Mr. Callaghan:** I have never been contacted about any meeting involving you, with great respect.

**Mrs. Campbell:** Then we had better find out who the minister is talking about.

**Mr. Callaghan:** On Friday morning we have the estimates on here.

**Mrs. Campbell:** This was to be at 9:30.

**Hon. Mr. Bales:** We will check that.

**Mr. Callaghan:** Unless it was made this afternoon; because I have not been in the office since the estimates started.

**Mrs. Campbell:** No, this was before the minister went to Ottawa.

**Mr. Callaghan:** No, no meeting has been set up to which I have been invited; that is all I can tell you. We have inter-ministerial meetings on these things, particularly about the problems relating to welfare payments or on applications to make such orders. We haven't completely overlooked the courts; we try to keep these things under review. But as far as a meeting is concerned, this is the first indication I have had.

**Hon. Mr. Bales:** You arranged it with Mr. Brunelle?

**Mrs. Campbell:** Mr. Brunelle, if you will recall, invited me in the House to participate, and I said I would. I understood he set it up for last Wednesday, then said he'd be out of town and asked if I could come at this time.

**Hon. Mr. Bales:** I'll speak to Mr. Brunelle about it.

**Mrs. Campbell:** All I'm trying to say, since the Attorney General has raised the point, is that I was not talking about the matter of the

enforcement of orders. I was talking about Mr. Brunelle's ministry using women to collect money under threat of cutting them off welfare when the money was going to his department. It was my view they should be the ones who should enforce the orders. I asked that this be clarified with your ministry. That is what I was concerned about.

I think the orders should be enforced if they can be, but I was also concerned about the fact that the welfare workers were advising women not to take money from their husbands, because they couldn't get into the courts if they did; and I thought this was an abuse.

I sent two transcripts to Mr. Brunelle, and his deputy has been working on it. Unfortunately, Mr. Brunelle advised me—and I believe him—that a letter from a judge and the transcripts apparently never got to him through the mail. He never saw these. Of course, I apologized for being angry with him, because I had assumed that kind of a letter would get through to the minister. It didn't, apparently, because he said it didn't.

**Madam Chairman:** It is 6 o'clock. May I ask that we try to convene here this evening promptly at 8 o'clock?

It being 6 o'clock p.m., the committee took recess.



CONTENTS

---

Tuesday, May 1, 1973

Law officer of the Crown programme .....	S-59
Recess .....	S-91



# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Tuesday, May 1, 1973**

**Evening Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 1, 1973

The committee resumed at 8:07 o'clock, p.m., in committee room No. 1, Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1201:

**Madam Chairman:** Mrs. Campbell and gentlemen, the meeting will come to order. The substitutions I have this evening are Mrs. Campbell for Mr. Worton and Mr. Lawlor for Mr. Deans. Had you finished your remarks, Mrs. Campbell?

**Mrs. M. Campbell (St. George):** Yes.

**Madam Chairman:** Right. We are on page J12, vote 1201, item 4, and Mr. Lawlor was the next speaker.

**Mr. P. D. Lawlor (Lakeshore):** Thank you, Madam Chairman. Thank you for delaying for a few moments until I get my eyesight back. I will get to it in a moment. I don't want to see at the present time. I think blindness very often is illumination particularly as I approach the Law Reform Commission—

**Mr. R. B. Beckett (Brantford):** What about the shortness of breath?

**Mr. Lawlor:** In preface—

**An hon. member:** Take it easy for a little while.

**Mr. Lawlor:** It is going to take me another hour to get back into shape.

**Hon. D. A. Bales (Attorney General):** You have been running upstairs.

**Mr. Lawlor:** In preface, let me say that I think the minister is sufficiently humble and apologetic about it, but we have before us this year a Law Reform Commission report, as we have had for many number of years past. They are extremely valuable in retracing the steps that have been taken, which one tends to do over a period of time, as well as those things that have been accom-

plished, those works in progress and the projections of future glorious deliverances.

The work that the Law Reform Commission has done thus far is enormously beneficial; not enough credit can be given to them. The whole concept of the Law Reform Commission has been much more valuable than we could have possibly imagined. It is strange to contrast that with the work done by the New York Law Commission, which was the first one in the western world when it came into effect in 1937, I believe. Down through the years, and up until a year ago, it made all kinds of recommendations; but, as far as I know, only a single one of all its recommendations ever passed into law in the State of New York.

A totally contrary record is maintained in Ontario, where basically the report comes down and within a reasonable time thereafter, with expedition and some *éclat* even, the legislation comes in and passes into law.

But the minister emasculated the work they did in terms of residential tendencies and that sort of area where they had a nice balance between landlords and tenants. The minister, being from an old Tory breed, felt that a nice balance wasn't quite what one wanted. He always would like to tip the scales somewhat in favour of the property classes and not the masses.

Well, I am on the side of the masses, and that's, I suppose, where our difference lies.

**Hon. Mr. Bales:** As the chairman said, we represent all the people.

**Mr. E. W. Martel (Sudbury East):** But some more than others.

**Mr. E. M. Pollock (Assistant Deputy Attorney General):** Considerably more.

**Mr. Martel:** He's going to be looking for a new job if he's not careful.

**Hon. Mr. Bales:** I don't think so.

**Mr. Martel:** I am glad you allow him that freedom.

**Hon. Mr. Bales:** I believe that's important.

**Mr. Lawlor:** In the past we have had the delight, I think I can say, of having Allan Leal present among us when his vote came on to bring us abreast of events. This was done under Arthur Wishart, but last year he was out of town, I remember, and I don't know where he is this year. I don't know if it is mandatory that he should be here. It was just pleasant meeting for an evening with dear old Allan.

I will never forget the time he turned me down when I wanted to become a professor. It was the nicest thing he ever did for me. In any event, I always sit here welcoming him with no great knife but perhaps a razor blade hidden in my jeans.

I would have you give some regard under this particular head to what's being done in Manitoba with their Law Reform Commission. They have seven members on theirs, while we have five; but three of their seven members are lay people, and they find that very valuable. Maybe you could look into that experience and see what contributions they make.

The lay people they have on the commission are Dr. Ken Hanly of the philosophy department of Brandon University—and for me, anybody who is in a philosophy department obviously has an enormous contribution to make to the common weal because of their wide-ranging intellect, the cosmic vision and the ability to see things in a big perspective—not all this worm's-eye stuff we get around here. Then there is Sybil Shack, educator and author; Val Werier, a journalist; and all the rest of them are lawyers.

I know that the present chairman is not particularly prepared to expand the size of the commission, but perhaps one layman might put a little extra breath of life into that ossifying body. I say ossifying, because there is very little really forthcoming. You may say they are monumentally engaged in the courts' restructuring; well, so be it if they are, but it certainly has truncated their opportunities and activities in a number of other fields.

This year, rather than the sometimes elaborate fashion I have used in the past, I would like to go over briefly some of the work that the commission has done and the work in progress—or would you say quiescent or simply moribund. Anyhow, nothing seems to be happening in a number of fields.

In the 1971 report, the last report we have for our scrutiny, at page 24, he is talking about the work that was being done on the family courts and the family structure. If

you remember that first volume, they got bogged down on that one because he got into some kind of abstruse formula as to the division of spoils between husband and wife. After that, he never really did survive the expedition into mathematics—it sounds like a lower Einstein or a higher Bertrand Russell—and by the time he got through, it was a purely academic effort.

He was unaligned at the time, wet behind the ears, just out of university, out at the elbows and not knowing quite what to do; he did this work on family law, five great volumes, and he carried the whole influence over from that particular atmosphere.

Since then, having wrestled with us fellows, he has become something more of a swinger, just as the minister has; now he writes his report in a sensible language and discusses down-to-earth issues. There are no more of these abstruse formulae that have the remotest possibility of working; and that's partially what went wrong with the family law thing. But they promised a great many things.

For instance, he talked about this:

The commission has, however, taken a number of important decisions concerning its final recommendations to be included in the report on children, which will be submitted during the coming year and will encompass recommendations in the law of custody and guardianship, the adoption of children in need of care and protection, children born outside marriage and the representation of the interests of children in legal proceedings.

This is in the next year. Where is it?

**Mrs. Campbell:** Perhaps he did not consider what year it would be.

**Mr. Lawlor:** The promises become flatulent in the course of the thing. Now we get back to the law-of-property project. That's an enormous, wide-ranging thing; a certain amount of work has been produced, but then he talks about the three main areas in which they are going to operate:

Work continued during the year in the landlord and tenant section of this project in three main areas:

1. Special problems referable to industrial and commercial leases.

I'll pause. Nothing, to my knowledge, has emanated from the commission touching on these particular kinds of leases. This is promised. This has been sitting around for quite a while. Where is it? Surely it isn't that



demanding. They have done the basic work on part IV of the Landlord and Tenant Act with respect to residential leases; I would have thought they were more difficult to contend with, but there you are.

2. The proposals for rationalization or revision of the general law concerning both residential and commercial premises.

Well, the residential has been dealt with. I don't know if he means a wider swath in the particular area of occupier's liability and that sort of thing—I don't think so—but we have a separate report on that, so the work on commercial premises remains to be done.

3. The consideration of proposals for the adoption of a standard form lease for use with residential premises.

Great! Three years have gone by without the resurrection of this lease.

With respect to the latter topic, our research supervisor, Prof. Morley J. R. Gorsky, prepared a substantial working paper which has been given wide circulation and comment has been invited.

Again I pause. We are supposed to be the critics of this wretched department, but we are never given any kind of internal information. I recently requested a copy of that book. I don't see why the minister wouldn't let me have that to peruse over the next fortnight. What have you got to hide? The Minister of Justice is a man of total integrity; he has to be holier than Caesar—well, Caesar's wife anyhow—

**Hon. Mr. Bales:** The other day you wanted the report, so today I put through all the procedures and I managed to get out the OMB report, which is in the House. I tried before the estimates, but we haven't got all of them out. We will do our best for you as soon as we can.

**Mr. Lawlor:** You mean you are going to give me a copy?

**Hon. Mr. Bales:** I cannot give you a copy until it goes through.

**Mr. Lawlor:** I am talking about this magnificent tome that you use for your particular perusal and guidance.

**Hon. Mr. Bales:** You mean this? Madam Chairman, excuse me if I interject here for a minute. When I was in the Labour Department, in two years I put out a brief summary for all the members of the House before my estimates came out. I was speaking to the senior people about this today; and I think

next year we will endeavour to put out a brief summary for this ministry for all members before my estimates.

**Mr. Lawlor:** The more information we get, the more we can cut down the time, don't you agree?

Anyhow, Prof. Gorsky, among his many chores, has been given this job. He says:

The initial draft of the commission's report on the first two topics has been completed, and we contemplate submitting the final report early in the new fiscal year.

I haven't seen it. I trust you have. I don't have a clue, but it is disappointing. Fine as Allan Leal's work is and the work of Mr. McRuer and the other members of the committee, what goes on?

Take the field of the law of evidence. The previous minister refused me the documents, the working papers on evidence, but subsequently, about two weeks after the estimates were over, I had a visitation from above, a kind of demi-Argus, and they landed on my desk one day. They were very valuable and I enjoyed them, reading the business of competence and compellability. These people are working on the horizons of that law.

Why it was felt that this should not be made available totally escapes me. I assure you I saw no nefarious purposes in your department. I couldn't see any serpentine, machiavellian scheme. It was just the law of competence and compellability.

That is all hung up. I don't think you are making any progress in the way of evidence or revising the law of evidence as far as the province is concerned. You are introducing it. All you did was get certain business types of report put through the Legislature. It was a skimpy enough statute at that. All right, take another thing, the revisions to the Solicitors Act. You did put through one, but I don't know about this one. It says:

During the year our research supervisor, Stanley Sadiesky, Esq., of the Ontario Bar, took a post with the faculty of law at Queen's University. The result has been that the work of this project has been somewhat delayed.

This has to do with the solicitors' costs. They anticipate that it will be completed by September, 1972. I am beginning to anticipate it may be completed by September, 1982.

The next item is the enforcement of judgment debts. This is a terribly interesting subject, because this is where the poor are pillared in terms of garnishees, in terms of



the way in which debt enforcers are enforcers with a capital E. You would think they were hired by some deep south gang. I want to know what the fellow has to say.

Work on this project continues under the able direction of David E. Baird, Esq.

Apparently it is continuing under the ongoing, able direction of Mr. Baird. Mr. Baird's abilities are not in question, but a certain dilatoriness seems to obtain.

They have this to say on non-possessory repairman's lien:

On the basis of representations made to us, the commission is investigating possible inadequacies in the present law governing the lien acquired by a repairman of a chattel for work performed by him upon the chattel.

As we all know, once that chattel is out of his hands he has lost his lien. They are thinking of giving a non-possessory lien. I think that is extremely valuable to working men, to garagemen, to people who work on objects, to be able to retain some sort of lien over articles. But whether it is or not, I am still kept totally in the dark. It is unfair. Surely that law is not that intricate. Surely a simple report can be given in this regard.

Finally, there is the report on the compensation for victims of motor vehicle accidents. Of course, there are political motivations behind that, that are so deep-seated, so atavistic and so purblind as to make me wholly understand why they issued that particular report. If they were logical, as these people usually are, they would lead to one conclusion. The Leal committee had been known to be a little radical in the past. They cut through. They did first-rate work on the Landlord and Tenant Act, wiping out several centuries of overburden and exposing some of the gold, and I couldn't give them enough credit.

I wouldn't doubt that they will come up with a compulsory universal no-fault policy run by government, don't you? No, it is literally unpalatable and might just place their jobs in jeopardy. So, I wouldn't expect that report to be produced too quickly.

By and large, there is a great deal hanging fire here which ought not to hang fire and which we have been promised in the terms of the report and which they haven't delivered. I couldn't criticize this last year. It was too foreshortened; it wasn't fair. But I think we have a right to raise our voices this year. They have been given fair pay. If they have shortage of staff, then let them expand.

You have very little compunction about spending \$200,000 in expansion in other areas, which I don't think will deliver as much benefit to the province as these reports do.

One report I want to mention a bit which bothers me is that of professor—what's his name?—who did the work on development control. He died.

**Hon. Mr. Bales:** Milner. He started it.

**Mr. Lawlor:** He started that. I have it and it is quite good. Then another professor, Prof. Weinrib took over—

**Hon. Mr. Bales:** A section of the Planning Act.

**Mr. Lawlor:**—and completed it.

**Hon. Mr. Bales:** That isn't Prof. Milner.

**Mr. Lawlor:** No, Prof. Milner has a much larger volume.

**Hon. Mr. Bales:** Milner had a much larger study. He was dealing with the whole of the Planning Act.

**Mr. Lawlor:** That is true, and I commend Milner in this. If he had completed it, it probably would have been a very searching document which would have aided greatly in the reformation of the Planning Act and in subdivision control and what not. All I am saying about this one is that it was turned over to this other professor. He hung around for a year or two and then he fizzled out.

**Hon. Mr. Bales:** That was done in a relatively short space of time. I was somewhat disappointed myself that they dealt only with one part of the Planning Act. When Mr. Leal included it, he came to see me. I felt that they would have been better to have taken a longer time to study the whole of the Planning Act. That was really what they were asked to do.

**Mr. Lawlor:** I am quite in accord with the minister on that. Also they point out, and there is some sense to it, that to do the kind of study that was initially envisaged would require sociologists, land planners, topographers, geographers—the works—working in a team concept and in conjunction. Still I would think you are going to have to do it in some ministry. Perhaps yours is not the right one. The ministry that it would seem to devolve on to, that is, Treasury and Intergovernmental Affairs, is already much too overloaded to commence a monumental task like that. Maybe you had better do that; otherwise it will never be done.

Of the other reports, warranties is, I think, before us. Let us put it that way.

**Hon. Mr. Bales:** We released that last spring.

**Mr. Lawlor:** It is fairly close. With Mr. Clement's handling it, I think it is in fair shape. We have the Powers of Attorney Act that we will be debating, I trust, in the next few days. It is a very good report and made a reformation of law which is long overdue, and certainly one can find no cause to quarrel with that.

Then there is the occupier's liability. We haven't done much about that one; it is kicking around. Have you any particular intentions about that? You know this whole business of invitees, licensees, trespassers, and guests of some kind in the law in answer to the various—very labyrinthine, I think would be the word—developments of English law down through the centuries. This is a rationalization of it and it is valuable. Why don't you bring in a bill one of these days? Don't shake your head at me. Tell me if you are going to.

**Hon. Mr. Bales:** When we get through these estimates, then we can get down to it.

**Mrs. Campbell:** Touché.

**Mr. Lawlor:** Come on. You have had plenty of opportunity. Months have gone by since the last estimates. This report was submitted in 1972. You have got very little grounds to look so composed on.

Let me see just for a moment what you have done, or rather more to the point what you haven't done. For instance, there are reports going back to 1968 that propose adoption of a uniform wills Act and the protection of privacy in Ontario. I don't know, as I can't remember, did you move commutation clauses into the Insurance Act?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** Trade, sales and houses and the doctrine of caveat emptor have been kicking around for a long time. Perhaps a more trying area with respect to warranties and the protection of the purchaser does not exist in our society, and it has sat around since Oct. 4, 1968. Do you think that if I stopped talking now you would bring in the bill tomorrow?

**Hon. Mr. Bales:** Well, not tomorrow.

**Mr. Lawlor:** Your plea was to get the estimates over, so you could go ahead with these

things that have been kicking around since 1968. My lord! the minister's complacency beguiles me.

**Hon. Mr. Bales:** Just a minute now. Remember I didn't get that honour—

**Mrs. Campbell:** It was not the minister.

**Mr. Martel:** That is an interesting comment because that is what we usually get—a continuous shuffle from the front benches.

**Hon. Mr. Bales:** I have been dealing with the ones that I received. Landlord and Tenant and so on.

**Mr. Lawlor:** You mean the ones you didn't receive personally are, so far as you are concerned—

**Hon. Mr. Bales:** No, I started back having a good look at all of those things. Incidentally, the repairmen's lien, I will be bringing forward within the next couple of weeks. And I must say in defence of the commission, because they were close to it and hadn't finished it, I really urged them to complete the administration of justice report so we could get on with the other matters.

On top of the other matters is the family law one, it is No. 1. But to come so close to finalization of some of these reports and then not have them released makes it not only awkward but I think it is unfair to them. They conclude their thinking and then they should complete them and release them.

**Mr. Lawlor:** Well, the one place we can't stand dilettantism is in the Law Reform Commission of Ontario and anywhere else in this assembly. I have finished.

**Mrs. Campbell:** In the light of the turn of events, you are not doing badly.

**Madam Chairman:** Shall item 4 carry?

Item 4 carried.

**Madam Chairman:** Item 5, royal commissions.

**Mr. Lawlor:** There is hardly anything left—no royal commissions left, in the province—

An hon. member: Carried.

**Mr. Lawlor:** No, wait a minute now. I am hoping that with this Hydro thing—I suppose it would—

**Hon. Mr. Bales:** That is not a royal commission.



**Mr. Lawlor:** I suppose it would have upset your budget, though, if you involved the Hydro office in a royal commission. You only have \$10,000 to do it with, so—

**Mr. Martel:** They are not counting on granddaddy this year.

**Mr. Lawlor:** That is the way I look upon most of the members of this House—like a three-ring circus, they're downstairs with Hydro, being—

**Hon. Mr. Bales:** You have put in an amount, \$10,000. That amount being there, we can of necessity apply for more money and add to these sums.

**Mr. Lawlor:** Oh yes, you have been known to do that.

**Mr. H. C. Parrott (Oxford):** Only with cause.

**Madam Chairman:** Shall item 5 carry?

Item 5 carried.

Vote 1201 agreed to.

On vote 1202:

**Madam Chairman:** Page J14, item No. 1, programme administration. Any queries?

**Mrs. Campbell:** Madam Chairman, could I have a definition? I am so confused between other programmes and these programmes, could I get a for-instance what this is about?

**Hon. Mr. Bales:** Perhaps I could assist you. The vote for funds for the main branch of the office of the General Manager, that is Mr. Pukacz. We deal with the financial management branch, the internal audit branch, the office services branch and personnel management.

**Mrs. Campbell:** I was asking really about programme. I find this is a disheartening budget because it is so stuck with administration, and so little else in comparison. It bothers me that there isn't more initiative, more imagination, more movement in this department. But I would like to know what we are talking about with programme administration in this context because I don't understand it. What programme has Mr. Pukacz got which he administers?

**Hon. Mr. Bales:** He is the General Manager responsible for the co-ordination of the internal organization, the personnel and financial management of the court system, of the whole ministry, and for the development

of uniform organization methods and procedures. Bear in mind as I mentioned yesterday, we have 450-plus offices throughout the province—

**Mrs. Campbell:** I know. It's too many.

**Hon. Mr. Bales:** —and all of those, because of the system, we must have auditing of their records, moneys that they handle, all the other things. This is Mr. Pukacz's responsibility.

**Mrs. Campbell:** You don't have a central budgeting and auditing system for the government?

**Hon. Mr. Bales:** No, not for the whole government, no. This ministry has it here. Of course recently we have switched to post-audit, and that has meant a substantial change. But Mr. Pukacz's responsibility—or that of his branch—has changed considerably. He does have a very heavy responsibility because of the multiplicity of offices and personnel spread as they are throughout the province.

**Mrs. Campbell:** What kind of responsibility does he have? Would you just tell me vis-à-vis a court? Would he be the one who would decide to put the non-soundproof wall in the court at 311 Jarvis St.? Or who makes this decision?

**Hon. Mr. Bales:** He has the financial management of all of these kind of things. He has the auditing, the supervision of that work throughout. He has to look after a multitude of payments for individuals, witnesses, all the juries, that kind of thing. Then he has all of these people spread out so far through the province—they all have their individual expenses, they all have to come through his office. Not him personally, but through his office.

**Mrs. Campbell:** Does he have any control of accounts?

**Hon. Mr. Bales:** Very much so. Very strict control, and that is why we have to have one office to control that uniformly.

**Mrs. Campbell:** Would he put freezes on? It would be his programme that would put freezes on?

**Hon. Mr. Bales:** No, he doesn't put freezes on. He has to carry out policies that are established. When government, as it had to last year, imposes constraints on all of us, they have to be dealt with by that office. He



doesn't originate the policy but certainly carries it out, and does it very well.

**Mrs. Campbell:** I wasn't criticizing him. I was just trying to understand what his function was.

**Hon. Mr. Bales:** I realize that. I may say, Mrs. Campbell, that when I came to the ministry and found the tremendous amount of work that must be done within the ministry and handled—all of the work for those various offices—it is a tremendous job keeping track. He wouldn't want me to say this but it does require of him a tremendous amount of overtime—to look after it and keep it up to date.

**Mrs. Campbell:** Where in this budget do you get to a programme of the expansion decentralization of the courts? Where is that? Is that in some other vote?

**Hon. Mr. Bales:** That comes under courts administration.

**Mrs. Campbell:** I see. All right.

**Madam Chairman:** Item 1206?

**Mrs. Campbell:** There are so many administrative programmes in this, you get bogged down.

**Madam Chairman:** Is there any other item under programme administration?

**Hon. Mr. Bales:** Excuse me for one moment, I just want to speak to George Gomme. Do you mind if I just go and speak to George, I haven't seen him for a year or more?

**Mr. Martel:** I was going to invite him up, Mr. Minister, to sit with us.

**Mrs. Campbell:** Is the budget wages, largely, or what?

**Hon. Mr. Bales:** Mr. Pukacz's budget this year was \$11,500,000, and that has increased from \$10,900,00; just about \$500,000. The bulk of it is in salaries and wages.

**Mrs. Campbell:** And this department, I presume, carries the same 12 per cent non-productive time as the general department?

**Hon. Mr. Bales:** Yes. This is the legal aid part—the contribution is in that you see.

**Mrs. Campbell:** I wanted to ask about legal aid.

**Hon. Mr. Bales:** In legal aid, the budget there has gone from \$11,200,000 to \$11,400,000.

**Mrs. Campbell:** If I may, on the question of legal aid. This is one of those areas I was mentioning. Why is there such a variation across the province?

For instance, in Kingston, you have duty counsel and/or legal aid for any type of case including child welfare or wardship courts. This is not allowed in Toronto. Were you aware that your judges in Toronto have been time and time again told in family court, not in criminal, that they should try to get along without duty counsel in an afternoon for children because it's too expensive? Now really, is that the policy?

**Hon. Mr. Bales:** No. Not too expensive. There has been difficulty in getting the counsel there. Certainly we are not trying to do it on the basis of saving money.

**Mrs. Campbell:** This is the message we got, and secondly you could always get duty counsel but they were told they couldn't be paid if they stayed in the court. That is a fact because I argued with them that I couldn't see why a child in the afternoon didn't have the same needs as a child in the morning.

**Hon. Mr. Bales:** I think it's Judge Felstiner who doesn't like duty counsel. I think there is a difference of view.

**Mrs. Campbell:** I don't think it is that he doesn't like duty counsel; he shares my view that if a child's liberty is at stake that child should have its own counsel. But there are lots of cases where a duty counsel would be appropriate, but either one or the other. You just run into problems.

**Hon. Mr. Bales:** What do you mean—either one or the other?

**Mrs. Campbell:** That a child needs someone—

**Hon. Mr. Bales:** I see.

**Mrs. Campbell:** —and it needs to have a duty counsel in the initial stages. A child needs a duty counsel to advise him as to whether or not he needs his own counsel, for one thing. We couldn't get duty counsel in wardship court and yet certainly there are cases there—now you have guardians ad litem—but not the kind of aid that you get in Kingston, for example. I'm puzzled as to

why it doesn't function right across Ontario in the same way.

**Hon. Mr. Bales:** I think the reason is because of the pressures here—the number of cases perhaps; the number situation.

**Mrs. Campbell:** Wouldn't that be all the more reason why you would have counsel available here? Not a lesser reason, but a greater reason?

**Hon. Mr. Bales:** I've done it on a basis of request rather than—in Kingston there must be sufficient in the uniform request that there hasn't been here.

**Mrs. Campbell:** And yet your adult courts seem to have adequate coverage here?

**Hon. Mr. Bales:** Yes.

**Mrs. Campbell:** I'm afraid I came to a conclusion—it may be erroneous—that perhaps the child wasn't as important as an adult in our society.

**Hon. Mr. Bales:** No, I would never want to accept that. Certainly it is not our philosophy.

**Mrs. Campbell:** If that is the case, then, would the minister undertake to advise as to Donkin and the people at legal aid of the philosophy of government so his mind could be set at rest?

**Hon. Mr. Bales:** I meet them periodically and I certainly will be meeting them again and we will discuss this matter.

**Mrs. Campbell:** Thank you.

**Madam Chairman:** Mr. Martel. Are you through, Mrs. Campbell?

**Mr. Martel:** I don't know about cases, as you know, Mr. Minister, but I'd like to say that I appreciate the action you took last year when I raised the difficulty mother-led families had in getting legal aid when the husbands wouldn't support them. There had to be some initiative on your part to rectify that situation in Sudbury as it has become somewhat—in fact, a great deal—better.

I have had no complaints in the past year from women—who have been really hard pressed to try to get some moneys out of their husbands—that they had difficulty in getting legal aid. I'm sure that after I spoke to you, you must have done something about it because it has been a vast improvement. I want to make it known that you did act and to the benefit of those people.

Right before the supper hour I asked you about having the mother-led families having to come to a hearing in Toronto when the husband might not be supporting—as in a couple of cases I've had where the proceedings have gone on in the county of York affecting a woman let's say in the Sudbury area.

In one case, in particular, the woman had to get on an all-night bus, travel all night, get down here to find the husband hadn't shown up and so she had to go back home. She had tremendous difficulty in getting the money to come here in the first place; to get here to find out that the notice hadn't been served on the husband and back she goes. The second time around I was able to get a solicitor to represent her without her being here.

But that's very, very hard and I don't know if it is possible—I really don't know that much about the law—to have those hearings held, wherever possible, where the wife and the children are, in that jurisdiction, as opposed to a court house 250 or 300 miles away—because they don't have the where-withal to get down here.

**Mrs. Campbell:** Why wouldn't that be treated as a reciprocal within the province?

**Hon. Mr. Bales:** It involves a change in consideration of rules. Those rules, particularly as they relate to the family court, are being looked at now to try to simplify some of these procedures.

**Mr. Martel:** Hopefully it will involve this sort of thing because—

**Hon. Mr. Bales:** You have just cited an example where it is a hardship on the person.

**Madam Chairman:** Shall item 1 carry?

**Mr. Lawlor:** No, no. That was almost a severe blow.

**Madam Chairman:** You didn't tell me—

**Mr. Lawlor:** It's my articulation. This legal aid is one of the finest things; against the nostrums contained in a recent article, one of the finest flowerings of the welfare state. The article in question is by Seaton Pollock from Great Britain: "Legal Aid in Modern Society," to which I will refer in a few moments. One of the finest flowers; he says that it is not a welfare state concept at all. It is a natural evolution of the natural benignity and beneficence of the legal profession.



It has not been known in the past among those who are most qualified to judge, namely the authors of this world, those that create that, you know. You go from Sterne to Dostoevski and not a single one has ever been known to say that. It would take a particular denizen of that particular group to confer that particular kind of grace upon his own head and upon that of his colleagues.

In any event, nevertheless, legal aid is where the humane comes into law—is beginning to come into law—where it is breaking through.

By the humane you mean personal relation, personal contact, a deep and intimate awareness of the plight of people who are less well off than yourself and a willingness to do something to help them. In this particular regard the profession in the province—the 50 per cent of the profession—who participate in a full way in the scheme and the actions of government in this particular regard is in my opinion about the finest in the world at the present time.

This is the one area where that particular hollow boast that you thump your chest with almost hourly has some validity.

Many jurisdictions can learn a good deal from us, including the British. They have a legal aid scheme in which the criminal courts aren't covered and in which the concept of a duty counsel is to say the least, remote. I would have thought that maybe the gentleman might have learned more from us than we had stood to learn from him in that particular visitation of recent date.

In any event, I am personally quite delighted with legal aid. I am doubly delighted to see that the federal government is assuming a responsibility in the field now and I would hope that—

**Hon. Mr. Bales:** It is not responsibility.

**Mr. Lawlor:** —it is giving you some money. Giving you \$4 million—

**Hon. Mr. Bales:** It is not responsibility.

**Mr. Lawlor:** All right. I am sorry.

**Hon. Mr. Bales:** It would greatly undermine the legal aid system if they did do that.

**Mr. Lawlor:** Responsibility in a very broad and vague sense. Perhaps not so vague—where the money comes from seems to me to impart a certain sense of responsibility. He may permit you to administer it within certain parameters I think which you brought yourselves, or at least the Law Society has brought itself, into accord with. It has certain guide-

lines, criteria, which it insists upon—and I don't think it is out of line with what we are doing at all.

Why was that extra \$4 million necessary, or was it so recent that you were not in the position to revise your estimates? You are intending to spend \$11.5 million—do you intend to drop it back by say \$3.5 million?

**Hon. Mr. Bales:** We don't receive the money for some time, so we have to provide the money in any event so that the programme can be carried forward.

**Mr. Lawlor:** Do you envisage this as a magnificent opportunity to extend the work of legal aid?

**Hon. Mr. Bales:** I expect it will.

**Mr. Lawlor:** And in this particular garb, let me continue with the second stage of legal aid.

Not only is it a beneficial scheme to begin with, but there is a sufficient sensitivity along the line to recognize its deficiencies—true, within some kind of angular legal mentality; but a groping sense that those who most need this service have not as yet been really exposed to it.

There is a real willingness to tempt a penetration, to try to reach the great number of people who go around bemused and bedamned by legal machinations of all kinds; caught in the web of contemporary society and don't know it, and grow neurotic largely just through puzzlement, confusion and not knowing what to do.

The community law office concept is being broached. I don't know how valid the scheme in Hamilton is; I have my reservations about it. But I give Professor Zemiens and others working out of Parkdale a good deal of credit.

I give the fourth annual report of the advisory committee on legal aid a goodly amount of credit. That's a difficult document to read—the 1972 report—because there are certain ambiguities.

They seem to jealously guard the preserves and prerogatives of the legal profession. They don't want law students penetrating—going beyond their ambit, whatever that might be. Nor do they wish schemes to be set up which give people who aren't thoroughly trained too much of an aptitude in advising people.

Nevertheless, there is this spirit through the report. Nevertheless, they seem to come out at the end saying, "Well, if it alleviates some suffering, some human strength, then all to the good; we will try and accommodate ourselves to it."



That's the spirit of exploration and empiricism that is vital to their scheme—and not the business of letting everybody accommodate themselves to us; which is the position of the law courts down to our time. The sense of service that is present is in contradistinction to what generally goes on in the courts as I see it. Society seems to serve the courts, and not the other way around, whereas here the opposite applies.

I would like just briefly to go over some figures. The total number of persons attending an area office increased in 1970-1971 by 24 per cent, and increased again in 1972 by another 15 per cent to 120,000. So the scheme is ongoing, cumulative, and no doubt a good part of the moneys being visited by the federal government will be used in the ongoing aspects of the scheme. And if the area offices are located diversely and in areas that are depressed, and that's the tendency, then this will increasingly be the case. I would be very hopeful to see that rise by 25 per cent next year, precisely because they had come in contact with the poor.

The number of formal applications for certificates increased in 1971 by 28 per cent, and last year by 11 per cent. There is a small drop along the way to 73,800. The issued certificates of eligibility in 1972 were 52,000, against 72,000 applications.

Sometime I would really like to learn—I don't know if it is in the purview of the minister or not, or if he has access to this information in its amplitude—as to the grounds and terms exercised. I'll try to bear this out in a moment. I think that there is a certain grudging attitude; that the terms exercised through Community and Social Services is much too restrictive.

Well, to get to the meat of the matter of this point immediately. This article in the Law Society Gazette of March of this year is a major address which is constantly referred to in all legal aid publications—for instance, *Communique*, coming out of the Law Society; and elsewhere. It's a most interesting article. It's swaddled in platitudes; but like the curiosity of Englishmen, it has certain points of steel—the velvet glove with the steel underneath. It comes out in point after point. He seems to be saying something that is axiomatic and completely acceptable, and then he touches on the nerve of the issue—which perhaps this society doesn't find quite as acceptable.

For instance, on page 61 of this publication:

So it seems to me that there ought to be no top limit for financial eligibility, and there need be no such limit. I won't go into it in detail, but as long as the contribution increases so that the assisted person pays a contribution which is reasonable in all circumstances in the light of his resources, there would be an automatic cutoff point for each individual according to the cost and difficulty of the case concerned, and the extent of his own capacity to meet that cost.

We cannot afford to have a section of our population which in certain circumstances is neither rich enough to face litigation nor poor enough to get the legal aid that is needed.

This has to do with our class action concept that we were looking for criteria on the other day. It was not the other day, it was just yesterday—it seems like several light years away.

Mrs. Campbell: It will be.

Mr. Lawlor: At the bottom of page 60, he says:

The next thing that worries me is that although the object is equality under the law, we have a cutoff point at the top in respect of income. There are certain types of cases in respect of which any one of us around this table [and this applies to all of us], and some of you may be the wealthiest people imaginable, would be worried sick if we were involved in certain types of litigation, particularly if we had a young family to be educated.

How would you have faced being involved in a thalidomide case, for example? It cost tens of thousands of pounds. One lawyer had to work for two years on nothing else; it was enormously expensive. [Their legal aid scheme took it over.] We were able to take up about 120 cases; we ran them all together and brought them to a satisfactory conclusion.

Our legal aid is not prepared to move into an area like that yet. And the nostrums of this man under that particular head are particularly valid. The very great number of people who are turned down for legal aid, as things presently stand, I think probably needs some measure of justification. I would ask the minister if he would advert upon it and perhaps comment upon these scales and the cutoff points so artificially brought into being here.

By the way, the refused formal applications from the previous year were 16 per cent and last year were 26 per cent. So you see they are moving in with a scalpel and the government has indicated that this is getting out of hand. I'm suggesting that it's not getting out of hand at all. The amount in 1970-1971 actually spent was \$10,220,000. This year he's only asking for \$11,400,000.

Can you call that an escalation? Lord, we see escalations in practically every other department in the government far beyond those ranges. Considering the benefits and the good they do, then we're fairly well paid in any cost benefit analysis that one could possibly think about.

What does worry a bit, accepting the present parameters and scheme, is: There is a considerable amount of money owing to the fund. The current report of the Law Society indicates that client contributions owing to the Legal Aid Society at March 31, 1972, of \$973,000—about \$1 million—were more than 90 days past due. Amounts owing to the fund in respect of costs awarded legal aid clients in civil actions have increased by \$1,200,000 since the close of the preceding fiscal year. And the balance of the page is taken up with means and methods employed with respect to the collection of those amounts.

I notice that they have acquired the services of a collection agency. I trust that they move with *suaviter*. Collection agencies are the bane of my life, the *bête noire*. I have no compunction about saying they are the most vicious single organization in this society. I hope that the agency that they've acquired would have the basic humanity that the scheme itself involves, in terms of its collection of accounts.

Somewhere else, and I don't know where it is, I recently read that most of this money owing ought never to have been elicited. It arises largely out of divorce actions, where, up to this point, counsel appearing have been under some obligation through the Legal Aid to ask for costs, in undefended actions and in actions which are defended. When the husband hasn't a ghost of a chance, or any possibility, largely because he's taken off, to even begin to make a contribution in this regard, just accumulating on the books, it is really a non-entry and never ought to have levied against the individual at all. That's the courts.

Secondly, as for the \$1 million that is owing by people, there must be something basically wrong, again on the basis of this

report, with the way in which individuals are assessed. The report itself admits that they ought never to have been assessed at that level. They simply haven't the wherewithal. They couldn't possibly pay back the scheme at the level of the contributions Community and Social Services is imposing.

This is not in your purview, but you certainly have something to say about it. I would speak to the minister involved and ask him again to consider a closer scrutiny and a more alleviative stance—because all you're doing is bringing the scheme into disrepute, by having \$2 million kicking around that is uncollectable, and isn't really supposed to be collectable. The bulk of it would never be collected, whether legal aid schemes existed or not. The defendant, or whoever it is in the case—the losing party—is impecunious, that's all. Deadbeat perhaps, or the proverbial stone.

So I think a good deal of that should simply be written off the books and people not harried to death over a collection process.

Hon. Mr. Bales: You are reading on page 9 of the report?

Mr. Lawlor: Yes, I am.

Hon. Mr. Bales: And if you look—

Mr. Lawlor: No, page 8.

Hon. Mr. Bales: Well, 9 when I followed it. If you look in the last paragraph on 9, it says with regard to contributions owing and costs awarded:

The Law Society will continue to preserve what it believes to be a proper, if somewhat delicately balanced, policy. Attempts to recover amounts owing will not be persisted in if it is thought that good money will be thrown after bad and the law of diminishing returns starts to apply. This policy is being carefully watched to ensure that efforts to recover contributions and costs are not abandoned too readily.

If you look at the statistics for the past year, the contributions to the fund are up 34 per cent over the previous year. So that the point you're making about divorce costs is quite right. It's almost 100 per cent of the cost. But under the present Act as it stands, they are required to seek to recover, or at least to ask for the costs.

Mr. Lawlor: The next point I want to make has to do with divorce. The minister might make a note of it. I note under the Manitoba



scheme, if I can find it here—I'm reading a newspaper clipping:

Reductions in fees charged by lawyers handling legal aid divorce cases were announced yesterday by Manitoba Attorney General Mackling. Mackling said the reductions, in line with recommendations submitted to him by the Manitoba Legal Aid Services Society, were almost half the former schedule for uncontested divorces. The old schedule called for a minimum payment of \$350 for obtaining an absolute decree, while the new fee is \$150.

I notice in the Legal Aid report that the average cost for divorce action in Ontario, the most expensive average cost in civil matters, this is page 6, is \$497.95. This sum includes disbursements. Certainly we're very much out of line with what is being attempted. I know there's a scheme on.

This is my second question. Although I never ask questions, I always make assertions. The scheme in Ottawa was a devised procedure. It seems in the report from the Law Society they go both ways. Let me read you a communique of April 21, 1972, and I wonder if you can bring it up to date:

A Legal Aid pilot project for dealing with uncontested divorces in Ottawa has had a mixed reception. The area director is pleased with the progress to date. [One sentence seems to offset the other.] Forty-seven certificates for advice have been issued, but it is too soon to tell how many of these will come back to be handled by judicouncil. Some members think the system gives less protection to the public by weakening the solicitor-client relationship.

Well, some would. But I doubt sincerely whether that actually takes place.

That's the one major area of ongoing discontent. I know either you or the previous Attorney General made fairly harsh reproaches to the Law Society under this particular head: "Gentlemen, we're going to have to do something about it." And some moves have been made in this regard, minatory moves generally. Unless more has come out of the Ottawa scheme than I believe to be the case, then I would have you look at what they're doing in Manitoba under this particular head and see whether you can't work out something similar to that.

One of the tangents that the legal aid scheme does tend to go off on ineluctably, it can't help itself, is the business of salaried lawyers. In some areas I'm against the public defender system. I think the way the legal aid scheme operates in Ontario is, on the

whole, beneficial and stimulative to the profession. Therefore it should be maintained in the form, but there are some areas in which salaried lawyers might do very well.

The tendency is increasingly in that direction, and I noted very much that this is the predominant aspect of the British scheme. They have been using a great number of salaried lawyers, setting them up in neighbourhood law firms.

This is the way in which they found it was possible again, referring for a moment to Seaton Pollock:

We then recognized there were certain places in London, in some six or other big cities where because of the economic consequences of the absence of effective and comprehensive legal aid services, there is a dearth of existing legal offices within reasonable reach.

We thought that the best thing to do in such a situation was to provide the very facilities that were needed on a salaried basis—all the service that could be given under the legal aid scheme as enlarged by the new Act.

And there are geographical concentrations—or malconcentrations of lawyers in Great Britain. In order to motivate lawyers into areas where they otherwise couldn't make an adequate living, subsidization or salary, if you will, has been paid to these firms to get them to settle there and to make it worthwhile for them.

They act as solicitors and barristers—largely solicitors, I suspect—as any other law office might—but they are given assistance to locate in those spots. And we might very well come to do the same thing.

One of the things that bothers me slightly about the legal aid scheme is the utilization of students in a particular regard. On the whole, I would give, in summary conviction cases and things like that, the widest ambit to students, and that is being given.

But, you know, there is an area under regulation 77:

A. The Ontario regulation provides that an area director may arrange with the student legal aid society in his area for assistance to duty counsel.

B. Where for other than financial reasons, a person has been refused a legal aid certificate in a matter under section 13 of the Act, refer such a person in respect of such matters to a student legal aid society in his area, having requisite approval to deal with it.



I'm not quite aware what's contained in that. What's the point there? What kind of individual falls under that designation—"other than financial reasons"—and if it's not financial reasons, then why is it, in a sense, shunted over—regular lawyers won't handle it, fully qualified men—to the students to take up the cudgels on his behalf? I have run into the odd case like that, but I never really understood how that operated.

I suppose I've asked enough questions for the nonce about the operations of the scheme, and there are probably a few more remarks. If the minister has any comments, I'd appreciate them.

**Hon. Mr. Bales:** In reference to the Hamilton pilot project, we envisage that they may well engage salaried lawyers in that scheme. They haven't at the moment. What they have done is to engage a salaried liaison person, as between the centre and the profession, to work that out, but I can see them moving to the situation where they will engage salaried lawyers to operate. They are right in the neighbourhood and I don't think they can adequately service what they are trying to do without engaging some people of that nature.

As to the Ottawa scheme, the latest information we have is in the report that I tabled some little while ago. We are anticipating an early report from the Law Society on that, but we haven't received it as yet.

**Mr. Lawlor:** Have you any information at all as to how it is operating?

**Hon. Mr. Bales:** No, I haven't. Other than that, I have been told that I would expect it shortly. It hasn't come.

**Mr. Lawlor:** Another area in which I think only the most tentative antennae are being—feelers are going out—for the future of the scheme, that is, to make it searching, deep-reaching, would be what is discussed in "Legal Aid in Modern Society," in part.

It has to do with those types of centres. This ties in very well with what you say about the Hamilton one—multi-service units. I don't think we are really doing that. In other words, when a somewhat beaten human being comes in, the range of his problems transcends by far that of the law. Social welfare would be involved, maybe some kind of psychological help could be involved, some kind of family counselling would be involved, the legal aspect would be involved, so that the many, many multiple services must be congregated, at least in certain areas of the cities and, where valid, in the countryside, for

the widest range—not just psychiatric help either, but even straight medical help. People are impoverished, malnutrition exists in half; they may be taken from the local apple-stand because they haven't the money to do anything else and they are running into legal problems. To this particular, this may be true about some of the children who are not properly fed at home.

Unless that kind of unit is arrived at and envisaged by the Law Society, then the full benefits of the scheme are being abnegated, neglected. My feeling is that not a great deal is being done in that Act. It may be a future step. But I would certainly like to see greater motivation in this particular Act, more bruising abroad that this is a possibility and a likelihood because it's upon us and altogether beneficially upon us. As this particular article put it:

So we have a second string to our bow [the British experience in this regard is deeper than ours] to see that those who require the services for which we make provision will actually get them. We put our money primarily into developing a close liaison between ourselves and the other social agents that are dealing with these other frustrations about which I spoke earlier: the workers, the welfare field, the domicile workers, the people going in and out of houses, the midwives, the medical profession, the teachers, the educationists—all people engaged in overcoming different forms of social frustration.

I am going to jump down further; it says:

Some of these are purely legal problems, others are multiple in character, so it needs two or even three experts to get to work to solve them. We lawyers have a part to play in this.

And has the minister any thoughts as to this wider scope in this particular area? Would you be willing to finance it?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** No?

**Hon. Mr. Bales:** Not now. But I think you have to recognize that the lawyers are there to give legal advice and I don't think we can spread ourselves too far.

The Law Society, and I commend it, has done very well in seeking out ways to extend the programme in the last year—for example, looking at the Hamilton project, looking at their work here in Toronto where they are making counsel available on night

duty, where you can contact them by telephone.

I particularly like the proposal to permit a consultancy—and approve that—so that a person can go and seek out that advice to a limited extent. It opens the door. It gives them that necessary information or advice as to how far else they need to go, whether there is a real problem. And I think it can help many people. The expenditure of money is very good.

**Mr. Lawlor:** I suppose as befits the chief law officer—

**Hon. Mr. Bales:** Now, don't be nasty.

**Mr. Lawlor:** —of the Crown, a certain, I won't call it salutary, but a certain caution with respect to all these things. It's highly your portion to be the visionary, but nevertheless—

**Hon. Mr. Bales:** You can be visionary, Mr. Lawlor, if you have a lot of money and you are prepared to do that. Now, if we all have to act and operate under fairly strict budgets, particularly this one, it is a very strict budget, as far as I am concerned. We need more money than we have today. In this area particularly the money won't come directly into that fund from federal assistance, but it is certainly going to enable us to move on and move out into attacking a number of problems that we haven't been permitted to do up to the moment.

In legal aid we have done exceptionally well. When legal aid first went through legislation in 1967 I think it was, no one envisaged that within the space of six years we would move to a budget such as we have today, or that we would be able to assist the very large number of people that we have. It isn't just a case of money, it is a determination to move on and that is what we have.

**Mr. Lawlor:** I can't quite agree with that. I attended the first legal aid meeting at Massey Hall, with Arthur Martin and others on the platform, and I do think that we envisaged that it would be a scheme of considerable dimensions and that very many people would be involved.

**Hon. Mr. Bales:** But not in six years.

**Mr. Lawlor:** Well, if the aid was going to come, it would have to come fairly rapidly because the crying need was there. I am surprised there was not even more of

an avalanche than what it actually turned out to be. In any event, that is a difference of opinion that will not be resolved by statistics.

One other thing that they are doing that I would like to ask about is the communique of Jan. 19, 1973. It says:

Persons in the York county area accused of serious crimes are to have legal advice available to them around the clock, by establishing a telephone service.

What is going on there?

**Hon. Mr. Bales:** I have a short paper here, perhaps I could just read it.

They approved the establishment of a night duty counsel project for an eight-week period, and that period has just ended—the middle of February to the middle of April. Now they have to assess it. The plan was implemented by establishing an unlisted telephone number which was made known through the Metropolitan Toronto Police to the staff of each station in Metropolitan Toronto. Signs and cards were provided to draw to the attention of those taken into custody the fact that if they wished to speak to a lawyer, but did not know the name of one, or could not get in touch with him, then they might ask to speak to the night duty counsel.

If the request was made, the call was then placed to the telephone number and relayed to a member of the practising bar of Ontario, and a telephone pager. A lawyer was then on duty from 5 in the afternoon until 8 in the morning, each night and also on Saturday afternoon and all day Sunday. In this way they sought to make it possible and practicable for a person to contact a member of the bar at any time. The service was used, and in most cases the necessary advice was given by telephone. In a few cases personal attendance by the lawyer at the place of imprisonment was necessary.

The results of the pilot project are now being tabulated and will be reported to the legal aid committee. Seventeen members of the criminal bar participated in the pilot project for a two-month period.

**Mr. Lawlor:** You are not in a position yet to assess it, then?

**Hon. Mr. Bales:** No, it just ended in April, but that report will be coming in fuller—

**Mr. Lawlor:** Would you be tabling that?

**Hon. Mr. Bales:** I will make it available.



**Mr. Lawlor:** When it comes I would like to see it. It is an interesting experiment.

**Mrs. Campbell:** I would like it, too.

**Hon. Mr. Bales:** Both to Mrs. Campbell and Mr. Lawlor.

**Mrs. Campbell:** If my friend has finished, could I have a question? Again it is, I guess, a philosophical one.

I have been concerned over the approach that is taken to the fee structure in legal aid on summary conviction matters. As you know, in the family court, there is a provision generally in Ontario for value services and the value to the client. I wondered if you had ever thought of it? Quite often the work that is done is very lengthy. It isn't just a summary conviction type of proceeding. I am thinking of the type—

**Hon. Mr. Bales:** It takes longer than a normal, or the other kind of situation.

**Mrs. Campbell:** I am thinking of the kind of case where a lawyer does effectively restore a child to a mother after a Crown wardship order has been made. It does seem to me that there is real value to a client in that, and yet the legal air tariff, no matter how many hours or how many days are spent in a court to accomplish that end, simply calls for \$75. That is almost the same as that for the summary conviction type of case.

I wonder if there isn't something wrong with that philosophy. If both the Law Society and perhaps the government—maybe not the government—but they seem to put the value to the client always on the basis of dollars and cents rather than on a real service of that kind. I wondered if you had thought about it and if it might be reviewed in that light?

**Hon. Mr. Bales:** Could I just deal with that?

**Mrs. Campbell:** Yes.

**Hon. Mr. Bales:** Very briefly. There is discretion.

**Mrs. Campbell:** Not used.

**Hon. Mr. Bales:** Well, maybe not used, but there is discretion there to enlarge the amount, but we are going to review a number of areas, and certainly this is one.

**Mrs. Campbell:** The other thing is, with reference to duty counsel, I have found that these are usually young people and very dedicated, bright young people. But they

find themselves in a great conflict as to their role, and I am wondering if there is any thought of trying to get the Law Society to do something to make it clearer. Particularly if they are dealing with children, they feel sometimes that they should be fighting through the adversary system for the child. On the other hand, they have a very real feeling that the child needs some assistance, and they are torn, these fine young people, between the two philosophies. I am wondering if you could be giving some thought to some kind of a programme that might give some sense of direction here. I really think they want it and need it.

**Hon. Mr. Bales:** I am thinking of some of those continuing education courses that the bar carries on. There was one recently dealing with family matters, or something of this order. Maybe some greater emphasis should be given to that. I have found that those continuing education things are really very good.

**Mrs. Campbell:** Yes, well I just point it out because I think they do a wonderful job and they are caught between the two philosophies in the law.

**Hon. Mr. Bales:** The horns of the dilemma.

**Mr. Lawlor:** I would like to argue with the minister, just for a moment. I again refer to the advisory committee report and to a report that was submitted to them from the Ottawa experiment. At page 32, there is this particular comment, which I think bears out to some extent what I was trying to get through. Quoting from the Ottawa report:

It is apparent from the Lower East Town statistics that the problems that the people have are both of a legal and social nature. It would appear that a solicitor who is well informed of the community resources is the proper person to advise these people. It is the constant complaint of the needy person that they have been referred from one agency to another without a solution to the problem. Legal aid clinics may help to overcome this problem. The statistics point out that not all the needy people are well-aware recipients. We therefore cannot rely upon community agencies to direct people to the legal aid office.

And it goes on. But the gist of my comments is basically that either the lawyer is quite profoundly trained in poverty law, which this report rather explicitly points out that they



are not—as a matter of fact, if I can find the—oh yes, at page 22, they say:

Unfortunately, many of these rights involve legislation with which lawyers have been given no sufficient legal education and are consequently unable to deal with expeditiously.

This is the very kind of problem that we deal with in the Legislature constantly and which we, as diminutive ombudsmen, are expected to be fairly competent to work in—the Social Welfare Assistance Act, the Employment Insurance Act, the Consumers Protection Act. And then, further down the page:

The difficulty is with the description “knowledgeable,” because very few lawyers know anything about the details of the social legislation which most nearly touches the truly poor people.

There has been a course recently given for the first time—the bar admission or the Law Society at Osgoode Hall—on poverty law explicitly. All to the good, and I understand there was a very good attendance. I have the brochure, or the publication issued by the society covering this particular area of the law and it is a valuable document.

So if most lawyers are not acquainted in the wider range of work, then they are of little help. I mean, I won't in any way seek to disparage—Lord help me, people getting any help at all is better than no help, of course.

But they could be infinitely more valuable if they knew a little bit about the social conditions and about the social legislation. And they could be a multitude of times more valuable if they were assisted by people—not in any great numbers. After all, the Ministry of Health, for instance, is giving cognizance to establishing community health clinics.

The member for York South (Mr. MacDonald) has one established in his riding and there is one opening up in my riding before very long. We haven't asked for any governmental assistance. I think Mr. MacDonald has got \$20,000 from the Ministry of Health in order to do this—they cover the whole gambit.

They don't cover the legal, I don't believe, but they cover from the psychiatric right through to the social welfare spectrum into the whole area of health problems—particularly the raising of children—and there are services with respect to family problems.

That kind of thing is coming into the world and it's a valuable concept; just as the doctors throughout their spectrum of dis-

ciplines must work in conjunction, because any one of them knows so little. The doctor who knows nothing other than the tibia is not likely to be a brain surgeon.

I'm trying to swing the minister into this way of thinking and looking at the method—not with any acceleration, but this is the orientation that must be achieved. And if you are well disposed in that, then it will move ahead.

If you are obtuse, then you will express that by demeanor or expressly to the people in the Law Society, saying: “Hold back a bit, let this scheme develop in its own amplitude and time. After all, it took several billions of years to make a man, you know, so that we can wait another few aeons to bring about the alleviation of the condition of the poor in our society.”

That's the basis of my remarks.

**Madam Chairman:** Shall item 1 carry?

Carried.

Item 2?

**Mr. Lawlor:** I apparently speak only for my own delectation. I assure you, Mr. Minister, it is not an exercise in straight oratory. I do appreciate a response on occasion.

**Hon. Mr. Bales:** I respond, but you are repeating yourself on the second go.

**Madam Chairman:** Item 2. Shall it carry?

Carried.

Item 3. Internal audit.

Carried.

Item 4. Office services.

Carried.

Item 5. Personnel management.

**Mr. Lawlor:** On the office services, let's stop there just for a moment to see what is happening. The previous year was \$229,000—went to \$322,000. That's a gain of \$100,000. Why?

**Hon. Mr. Bales:** Mr. Pukacz.

**Mr. E. K. Pukacz (General Manager):** We are slowly taking over payments for things like parking which was paid previously by the Ministry of Government Services.

On the other hand, we are purchasing all the books now. All legislative books were given to us for nothing. I mean we didn't pay for them and the Ministry of Government Services was paying it all. Now we have to

pay from our budget. So most of it, except salary revisions—which amount to about 12 per cent of it—are in this additional payment. This is an internal payment where we pay for services provided by other government ministries.

**Mr. Lawlor:** I trust that on the Revised Statutes of Ontario for 1970 they will give you a small discount.

**Mr. Pukacz:** No, not at all. All discounts were taken away. On the other hand I know that Canada Lawbook is complaining that it lost the discount—and we are looking into it.

**Madam Chairman:** Item 5; personnel management. Shall it carry?

Carried.

Vote 1202 agreed to.

On vote 1203:

**Madam Chairman:** Page J16—vote 1203—guardian and trustee services programme. Item 1, official guardian.

**Mrs. Campbell:** Official guardian—Madam Chairman, I wanted to speak to this but my remarks really relate to compensation for criminal injuries—the Criminal Injuries Compensation Board. It relates to the unanswered question I put to the minister in the House. It wasn't answered.

I was asking why the official guardian wasn't included in those to whom payments would be made; and I went on to discuss at that point why there hasn't been some investigation of the rights of a child injured by a criminal act, such as we find in contributing situations.

I wanted to explore it, but I am at a loss to know whether it should be explored here. I'm a little puzzled as to why this budget is down and everything else is up. But I suppose I should confine my remarks on that to just that question and then get back to the OG when I get over to Criminal Injuries Compensation Board.

**Hon. Mr. Bales:** Well, really, the point you raised comes under criminal injuries.

**Mrs. Campbell:** Yes, it does, but there is an effect on the official guardians—I would think you might engage the services of someone who would give assistance to a child in that predicament. I would like to know why it is down and everything else is up.

It seems to be down, if I read it correctly.

**Hon. Mr. Bales:** Well, it is down from just over \$1 million; down about \$100,000. There are some changes we put through last year. Mr. Callaghan is saying the age of majority is one thing; that has been lowered, you see.

**Mrs. Campbell:** Oh yes, I suppose that would be an effect.

**Hon. Mr. Bales:** By three years! But we also put through some other changes last year which had an effect on their reports; and it was a substantial saving. We anticipate a substantial saving, of about \$50,000, in reference to reports they are required to obtain.

**Mrs. Campbell:** For divorce legislation?

**Hon. Mr. Bales:** Yes.

**Mrs. Campbell:** Well, why was that a saving?

**Hon. Mr. Bales:** Well, it was a saving. It was the way it was done. We no longer—

**Mrs. Campbell:** Use the services?

**Hon. Mr. Bales:** —put them all through Children's Aid. And there was certain discretion given as to the occasions when reports were necessary. It used to be you got them in every case; and it is not necessary in every case. But a year ago now there was an amendment to the Act which permitted some discretion.

**Mrs. Campbell:** Well, I haven't been in the divorce courts lately, but aren't they—

**Hon. Mr. Bales:** And also—if I may just interrupt—the official guardians do those reports through their own agencies now, without necessarily contracting them out in each case.

**Mrs. Campbell:** Are they still really as meaningless as they used to be? Are they still based on how much money—all this business—instead of the quality of the home? I have never seen one yet that reflected any real concern or report on the quality of the home of either parent—except in dollars and cents.

Is there some thought being given to taking a real look—and is there not a function for the official guardian, or someone in the court, to act on behalf of the child; not just in this way?

Why is the child continually a chattel to be disposed of in a divorce action—which is really what happens. It goes along with the furniture as a rule.

These two things bother me and I very much feel that there should be someone, and it seemed likely that the official guardian would be the one who would take this on, unless you have got some other ideas. Are there any ideas?

**Hon. Mr. Bales:** Not really. I think I differ with you there. I agree with you on some of the reports as they used to be. I think they have improved substantially.

**Mrs. Campbell:** Good. As I said, I have not seen them.

**Hon. Mr. Bales:** The court, I am sure, is always concerned about the welfare of the child. You were.

**Mrs. Campbell:** You are darn right!

**Hon. Mr. Bales:** I think that judges throughout—I haven't been on a matter such as this for a long time but I always found the court to be very concerned as to the child and the welfare of the child.

**Mrs. Campbell:** I am not suggesting that a court is not concerned. I am suggesting there is very little way in a Supreme Court action, which is different from family court matters, for the child to be before the court in a divorce action.

I don't think the child is seen by the judge. I think he relies, perforce, not because he or she wants to but because it is a fact of life, on some written report. It does mean the child is not given representation at all. Now some of them are at an age when they could surely be considered and have someone there to represent their interests.

**Hon. Mr. Bales:** I think they don't need it, necessarily; and there may be cases where it doesn't apply. I think in most instances the court is fully cognizant of the interests of that child. I don't think the child necessarily needs separate representation.

**Mrs. Campbell:** As I say, when I spoke about the disposition I wasn't speaking either lightly or in a derogatory fashion of the court or the judge. I am simply saying that the disposition which is made depends heavily on the kind of report a judge has because he does not as a rule, in my experience, see the child. The child, therefore, is again invisible and might very well have—and often has—some very good ideas about what he or she wants to do rather than what somebody has to say about what he or she ought to be doing.

It occurs to me that the official guardian at least could hold some sort of a watching brief or do something in this area to lend some kind of credence to the fact we are dealing with a human being or a series of them. Is it possible, at least, that the Attorney General would give some thought to this in the course of the next year?

**Hon. Mr. Bales:** Certainly, you have made a good point as far as I am concerned. We are keeping careful note and we will do that; I will talk to Mr. Henry about this one.

**Madam Chairman:** Mr. Lawlor.

**Mr. Lawlor:** I was wondering—we usually don't spend a good deal of time on the official guardian's offices—what is the complement of that office at the present time? Has it increased in the past year or so?

**Hon. Mr. Bales:** The complement at the moment is 50 people. Perhaps one of the others can tell me how much it has increased. We obtained some additional staff, I know.

**Mr. Lawlor:** If I may interject—I am sorry, Mr. Minister. The salaries and wages have gone from \$474,000, at least that was the amount designated for 1972-1973, to \$564,000. It may be just pension benefits and what not, increases to existing staff.

**Hon. Mr. Bales:** There are increases, certainly, in salaries but there is also an increase in staff.

**Mr. Lawlor:** Well, that is quite a good increase.

**Mr. F. W. Callaghan** (Deputy Attorney General): In 1971 it was 38.

**Hon. Mr. Bales:** It has gone up by 12 people.

**Mr. Lawlor:** Another 12 people?

**Hon. Mr. Bales:** Yes, from 1971 we have increased by 12, and we have a full complement at the present time.

**Mr. Lawlor:** How do you reconcile that with the figure for this year? Is it because of the Age of Majority and Accountability Act that you are going to need fewer people because there won't be as many cases of infancy care that have to be attended to?

**Hon. Mr. Bales:** We have increased our staff.

**Mr. Lawlor:** How do you get your estimates reduced to \$918,000 from \$1,242,204?



**Mrs. Campbell:** Have to add supplies may-be.

**Mr. Lawlor:** You increase the staff and get a lower estimate?

**Hon. Mr. Bales:** There will be fewer people because the age of majority has changed. That has reduced it by a substantial number and now we have brought in social workers to that area, dealing with these reports and other things.

We found that when the official guardian took over the preparation of these reports during the year we had to apply for an increase in the complement because they were not able to produce and complete adequate reports as quickly as they anticipated, and there were some delays caused by that. There was reference made to that on several occasions by the public. Prior to that, we had proceeded to ask for and obtain some additional staff.

**Mr. Lawlor:** Obviously the reduction, basically, must have taken place in terms of services. What are these services that you speak about? These reports?

**Mr. Callaghan:** The substantial impact of the change in the age of majority has been felt in the business of the official guardian in the area of surrogate court audits. They have been reduced. Payments into and out of court on behalf of children have been reduced. Fiats for payment out of court, for maintenance and other purposes, that type of application has been reduced. The number of payments pursuant to existing fiats out of court—the applications for new fiats— have been reduced. Counsel work under the Child Welfare Act, the Infants Act, Fatal Accidents Act, that type of work which the official guardian undertakes has been reduced because of the reduction in the age of majority.

The only business that has increased is the matrimonial causes business, and that matrimonial causes business has been picked up by the social workers who are preparing the reports, resulting in an increase of staff but really a decrease in overall business.

**Mr. Lawlor:** Give me an instance of that. Take the Fatal Accidents Act, could you give me the number of fatal accidents in a year with the ages 21, and has it decreased in the year in which the age is 18?

**Mr. Callaghan:** No I don't have that statistic. We can try and get it for you if you would like. We don't have that precisely.

**Mr. Lawlor:** Your guess would be that it has?

**Hon. Mr. Bales:** We can give you some general statistics, for example cases taken from the Surrogate Court audits and I am going to go from 1969 down to 1972, for that range. It's gone from 789 down to 629.

But in the matrimonial causes it has gone from 8,500 and it dropped slightly down and now it's gone up in 1972 to 9,600. It really went from 8,200 to 9,600 between 1971 and 1972. The number of payments into court dropped almost 100 in the four years—327 to 244. New fiats—authorizing payment out of court—down from 683 to 502.

In 1971 there was a fluctuation there, it went up to 800 and then down to 500. The number of payments out of court pursuant to the existing Acts in four years has remained almost stable, but from 1971 to 1972 it dropped 110—from 1,637 to 1,527.

**Mrs. Campbell:** How do you work the guardians ad litem in that department? Are they considered part time in their function in that area? They are general staff, I take it?

**Hon. Mr. Bales:** Yes.

**Mrs. Campbell:** Then they just function there as part of their job?

**Hon. Mr. Bales:** That's right.

**Mrs. Campbell:** I see.

**Hon. Mr. Bales:** That is right; isn't that right?

**Mr. Callaghan:** Are you referring to lawyers retained? The guardian ad litem is the official guardian, he is a statutory guardian ad litem.

**Mrs. Campbell:** Yes, well the ones who appear in court are from the OG's office. I just wondered, are they all on permanent staff and is that going up or down or what?

**Mr. Callaghan:** All the representation in Toronto is done by the official guardian's office in Toronto. Around the province the great majority of the work is done by agents retained by the official guardian for that purpose.

**Mrs. Campbell:** I see.

**Mr. Callaghan:** Local lawyers primarily.

**Mrs. Campbell:** Have you any experience across the province as to whether that is

going up or down; that function, where you have them just engaged for that purpose?

**Mr. Callaghan:** It has decreased in the last year or so. The business has fallen off.

**Madam Chairman:** Shall item 1 carry?

**Mr. Lawlor:** No. Just a couple of more questions as to policy.

Take the Fatal Accidents Act; an infant is left an orphan because the two parents are killed in an accident of some kind. Let's say the infant has very little resources. Would that infant be represented through legal aid or referred to a lawyer, or would the official guardian, acting as guardian ad litem, take the proceedings on behalf of the child?

**Hon. Mr. Bales:** The official guardian does it.

**Mr. Lawlor:** The official guardian would take the proceeding? In all infants tort actions, would the official guardian take the cause of the infant? Legal Aid has nothing to do with it?

**Hon. Mr. Bales:** It depends. If there is a guardian appointed within the family and so designated, then they would retain their own.

**Mr. Lawlor:** In that circumstance, if an uncle, say, was appointed and proceeded with the action, then the only interest of the official guardian would be in the outcome; I mean if moneys were available to be paid into court?

**Hon. Mr. Bales:** That's right. They'd have to report to the official guardian.

**Mr. Lawlor:** One other question: What is the policy of the official guardian with respect to funds that he has in his possession on behalf of an infant and the parents, due to some problems, are impecunious or in a bad financial position?

**Hon. Mr. Bales:** I'm not quite sure what you are getting at there.

**Mr. Lawlor:** Well, the parents may be able to look after themselves and so on while the child is in their custody, but if something goes wrong, there's money sitting there until the child is of age, or some of it may be being paid out.

**Hon. Mr. Bales:** Do you mean in the official guardian's hands?

**Mr. Lawlor:** Are there special applications made to get larger sums?

**Hon. Mr. Bales:** His funds are maintained with the accountants of the Supreme Court.

**Mr. Lawlor:** Right. I'm talking about the payments made to the parents of the child by the official guardian.

**Hon. Mr. Bales:** If they were for maintenance, large sums wouldn't be paid.

**Mr. Lawlor:** Yes, the maintenance payments. Is it known that on occasion they would give a lump sum payment, perhaps because the parents were unable to support the child?

**Hon. Mr. Bales:** It is under the court. The court decides how much should go out; you have to obtain proof.

**Mr. Lawlor:** Do you know if it actually happens?

**Hon. Mr. Bales:** Oh yes. That's what the applications are for.

**Mr. Lawlor:** I know you have to make an application to the court, and the court would have the discretion as to what the condition of the parents were, but I don't know how far-reaching it is.

My feeling is that the money is fairly closely guarded, and great care is taken not to release any more funds than are absolutely necessary, pending the maturity of the child, so he can come out with the largest sum possible at the age of majority.

**Mr. Callaghan:** In 1972, there were 1,527 payments out of court made to children pursuant to applications in which the official guardian appeared or was represented. It is a common procedure. In each case the court exercises discretion as to how much the payment should be. It could be a lump sum or an interim payment to the parents for maintenance or education, pursuant to the rules of practice.

**Mr. Lawlor:** All right. I won't question it any further.

**Mr. Parrott:** What is the interest rate on that money?

**Mr. Pukacz:** We pay 7½ per cent on children's investments.

**Mr. Parrott:** That has increased rather markedly over the last seven or eight years, hasn't it?

**Mr. Pukacz:** It was increased about two or three years ago.

**Mr. Parrott:** From as low as three per cent?

**Mr. Pukacz:** No, from six per cent.

**Hon. Mr. Bales:** It was five per cent earlier than that.

**Madam Chairman:** Shall item 1 carry.

Item 1 agreed to.

Item 2, public trustee.

**Mr. Lawlor:** What is the role of the public trustee in the supervision of charitable financial interests?

**Hon. Mr. Bales:** Well, he supervises them.

**Mr. Lawlor:** As the official guardian acts in the case of infants, so the public trustee acts in case of mental incompetents. But what is involved in the supervision of this particular area? For instance, is the Atkinson trust under surveillance? Does the public trustee do that?

**Hon. Mr. Bales:** He audits the accounts.

A few years ago when I was still in private practice I had one particular group—I wasn't acting for them, but I was asked if I would take it, because the public trustee was objecting and wanted a detailed accounting of their situation. So they came to me for assistance, and I had to work it out with them. They went into it in substantial detail.

**Mr. Lawlor:** How far does this go? I am not aware of it. If a will is filed to the surrogate court—

**Hon. Mr. Bales:** When you are dealing with a will and there is a charitable bequest in it?

**Mr. Lawlor:** Yes, a charitable bequest!

**Hon. Mr. Bales:** Then the public trustee is automatically notified of that by the surrogate court office. Normally, as I recall, I always used to write a letter to the public trustee as well so that they were aware of it, and they heard directly from me. I can recall with certain church bequests that I used to receive a request for information as to the payment of that money.

**Mr. Lawlor:** Yes.

**Hon. Mr. Bales:** Usually I endeavoured to notify them when the bequest was paid to the institution or church or whatever it was.

**Madam Chairman:** Shall item 2 carry?

**Mr. Lawlor:** No, just one moment. What is the complement of that office?

**Hon. Mr. Bales:** It is 155.

**Mr. Lawlor:** And, again, has there been any increase in staff in the last year?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** No? There has been an increase of \$200,000, or about that, in salaries and wages?

**Hon. Mr. Bales:** Yes, that's right.

**Mr. Lawlor:** What would that be?

**Hon. Mr. Bales:** Well, largely revision of salary.

**Mr. Lawlor:** An upward scale?

**Hon. Mr. Bales:** Yes; they are all affected by the changes in the civil service.

**Mr. Lawlor:** Okay!

**Mrs. Campbell:** That is at full complement now?

**Hon. Mr. Bales:** Yes, I think we are at full complement there.

**Madam Chairman:** Is item 2 carried?

Item 2 agreed to.

Item 3, Supreme Court accountant. Shall it carry?

**Mr. Lawlor:** On that particular one, that's new for me. Where was that in the previous estimates?

**Mr. Pukacz:** In Supreme Court of Ontario. All trust accounts now are in one vote. They are administered by my division as far as investment is concerned.

**Mr. Lawlor:** Okay.

**Madam Chairman:** Is item 3 carried?

Item 3 agreed to.

Shall vote 1203 carry?

Vote 1203 agreed to.

On vote 1204:

**Madam Chairman:** Page J18, vote 1204, Crown legal services programme; item 1, programme administration.

Does programme administration carry?  
Carried!



**Mr. Lawlor:** Just bear with me on item 1. It has gone from \$75,000 up to \$168,000. Perhaps a little accounting should be given of that, as far as that is concerned.

**Mr. Callaghan:** This is the office of the Assistant Deputy Attorney General who is responsible for the integration of the legal services. This particular vote is also the office of the director of Crown attorneys and his particular office. Also included in there is our librarian, the ministry's librarian, and the secretarial help for those two senior officers. They are responsible for the programme administration of the Crown attorney system and the integration of the legal services.

**Mr. Lawlor:** All right. What is added to it over against the 1971-1972 estimates?

**Mr. Callaghan:** The real addition arises from the director of Crown attorneys' position. As I indicated yesterday, that position has been established in the ministry and the position of special adviser in criminal law was transferred to the ministerial office.

**Madam Chairman:** Shall item 1 carry?

Item 1 agreed to.

Item 2, criminal prosecutions.

I believe Mrs. Campbell wanted to speak to this and so did Mr. Martel. This has to do with Crown attorneys.

**Mrs. Campbell:** My position on that one was that it really isn't a criminal prosecution. I don't know what you'd call it. I was asking to speak on the matter of the discretion in a Crown attorney to deny an application, or to approve it, for the laying of an information for an access order. I guess I am stuck with getting it in here.

You did tell me that I had to address you on this particular vote. I wanted to get the question asked. Do you want me to repeat the question?

**Hon. Mr. Bales:** Not just to repeat it, but can you expand on it a little bit?

**Mrs. Campbell:** Yes.

As you know, under the law, when it comes to a man who claims that his wife is in contempt of court in being in violation of an access order, he cannot go to the court in the same way that a wife can for failure to pay. He has to get the consent of the Crown to proceed on that contempt, and the consent varies. Now what I have

said the judges are doing, because they are fed up with it, is to circumvent this by having a rehearing based on new evidence, the new evidence being that the wife is not complying with the order of access.

It strikes me that this is about as archaic an approach as you could get, and that it does reflect on the real problem of the failure to enforce maintenance orders. A man simply says: "I haven't seen my kids. I have a right to see them. I don't even know where they are and I am not going to pay until I get my wife in court to answer to her contempt."

Now there was a Crown attorney in Toronto, who is no longer here, who took the position that if the man refused to pay he certainly wouldn't grant him the right to bring the wife before the court on that contempt. I may say, go so far as to say that if Margaret Campbell put the position to him he might consider it, but it seemed to me that really wasn't the way it should function.

In other areas, I understand they are much more accommodating to this. I don't really understand why it is in the provisions at all. I don't know why a Crown attorney should be involved in any way.

**Mr. Callaghan:** They shouldn't be.

**Mrs. Campbell:** Well, they are, and that's the law.

**Mr. Callaghan:** With respect, I am afraid we are unaware of any requirement for the consent of the Crown attorney to institute contempt proceedings. Contempt proceedings are instituted—

**Mrs. Campbell:** No, he doesn't institute them, he merely grants permission for them to be instituted.

**Mr. Callaghan:** He has no authority to grant permission for them and he has no—

**Mrs. Campbell:** It is required that he do this, and your Crown has said—as I say, he is no longer here, the one who was here said—"I wouldn't give consent in these cases if a man isn't paying."

**Mr. Callaghan:** Mrs. Campbell, I am afraid that I am unaware of the statute that requires that.

**Mrs. Campbell:** All right, then I will speak to you afterwards. But it is a matter of concern to me that this should be so and that there should be, across this prov-

ince, a difference in the Crown's attitude to the husband's right to get before the court.

**Mr. Callaghan:** The Crown has no authority that I am aware of to stand in the way of the husband getting before the courts. Now maybe there is a statutory provision—

**Mrs. Campbell:** There is. I will get it for you.

**Mr. Callaghan:** Under what Act is it, Mrs. Campbell?

**Mrs. Campbell:** Pardon?

**Mr. Callaghan:** Under what Act?

**Mrs. Campbell:** It is under the provisions of the Deserted Wives and Children's Maintenance Act in the enforcement of the order. If you have got it there may I see it?

**Mr. P. LeSage** (Director of Crown Attorneys): Mrs. Campbell, section 6 of the Deserted Wives and Children's Maintenance Act does require the consent of the Crown if someone other than a spouse is to lay a charge. If it is that one that you are referring to, in that particular situation, in some cases we have been delegating that authority to various persons. We discussed it at a Crown meeting three days ago and the recommendation is that perhaps the section—and I intend to discuss it with Chief Judge Andrews—be eliminated from the Act.

**Mrs. Campbell:** That's honoured in the breach.

**Mr. LeSage:** Yes.

**Mrs. Campbell:** Mothers-in-law bring it without any problem at all.

**Mr. LeSage:** I have been corresponding with Chief Judge Andrews on this matter and have discussed it with him on one or two occasions, as recently as last Thursday; and I discussed it with the regional Crown attorneys last Friday.

**Mrs. Campbell:** As I say, that has not been a problem. The problem has been that the Crown does vary in its position as to whether a man can in fact lay the information which in effect charges contempt. In Toronto there was this variation, and I don't know what the present Crown does about it. That was what the one that we had until we got the new one said, and I think it's wrong.

**Hon. Mr. Bales:** We will get a copy of the Act so that you can see it.

**Mrs. Campbell:** Yes, I never remember sections of it, but I will get it. I will look it up. I have it in my own book. But it is very definitely part of the law, and this is one of the things that bothered me about your automatic enforcement, because it stands right dead in the way.

**Madam Chairman:** Mr. Lawlor!

**Mrs. Campbell:** You will look into that?

**Hon. Mr. Bales:** Yes, but I would like to get the section. It would help us. They may bring it in tonight before we are through.

**Mr. Lawlor:** Just sticking for the moment to the money situation, again a fairly big jump, about \$1.5 million between the two years. How is that accounted for? Have you increased the number of Crown counsel considerably in the past year?

**Mr. Callaghan:** Yes, we have taken on eight Crown counsel in the past year.

**Mr. Lawlor:** How many?

**Mr. Callaghan:** Eight.

**Mr. Lawlor:** Where have they been allocated? The north? Is there a new one in Sudbury?

**Hon. Mr. Bales:** They have added them in the areas where the work-load is heaviest. There are more in Toronto—two here, in Peel two; and the Hamilton area particularly.

**Mr. Lawlor:** How many in Hamilton?

**Hon. Mr. Bales:** Two.

**Mr. Lawlor:** Two in Hamilton.

**Hon. Mr. Bales:** Sudbury has had one increase. There's one other and I think it's Kingston.

**Mr. LeSage:** There are two in Peel; two in Hamilton; one in Sudbury; one in Ontario; one in Toronto; and two extra for the implementation of the coroner's system. It will be required that Crown attorneys attend all inquests.

**An hon. member:** That's in Toronto?

**Mr. Lawlor:** There's Bud Budzinski in Peel; and who else?

**Mr. LeSage:** John Scott in Peel.

**Mr. Lawlor:** John "Stot"?

**Mr. LeSage:** Scott.



**Hon. Mr. Bales:** Scott; he's just been appointed. You probably don't know him. He comes from somewhere else, Highland Creek near Scarborough.

**Mr. Lawlor:** Do you ever fire anybody?

**Mr. LeSage:** I have only been here for three months.

**Mrs. Campbell:** New brooms haven't been sweeping that clean!

**Mr. Lawlor:** I'm kind of interested. It seems Crown attorneys—

**Hon. Mr. Bales:** You mean do we?—Yes, we've had Crown attorneys dismissed.

**Mr. Lawlor:** You've had dismissals?

**Hon. Mr. Bales:** People have left the system.

**Mrs. Campbell:** They've resigned?

**Hon. Mr. Bales:** Sometimes they resign. They want to go on to do other things. We had one particular one in the north. There are cases where we need improvements and we deal with them.

**Mr. Lawlor:** We will come to that in a moment. This is one of the problems there have been, I suppose not as much in the past, the leaving of Crown attorneys.

What I'm concerned with at the moment is that surprisingly, considering the number; considering the onerousness of that job; considering that some of them handle 30 cases a day, and maybe a lot more than that—

**Mrs. Campbell:** Oh, a lot more than that.

**Mr. Lawlor:** The corridors are crowded with people. I suppose there must be up to 60 cases. Many of them are adjourned; many of them are pleas of guilty; and they all run through very rapidly.

I suppose that in the average day in a court around Toronto he must handle 25 cases. How he manages to do it within the limitations of the judge who's insisting upon leaving at 3 o'clock escapes me.

**Mrs. Campbell:** That's not fair. They don't.

**Mr. Lawlor:** Apart from that, precious few complaints come through in the press. I suspect that you get a good many more and I would like to know in this particular area whether the complaints emanate from the general public, by and large, who think they have been treated crassly by a Crown attorney; or from their fellow lawyers who,

I think, possibly feel more afflicted than members of the public do on occasion by the subsisting Crown attorney.

**Hon. Mr. Bales:** I have had very few complaints in reference to the Crown; and more than that, when we were engaging a number this year and I started early interviewing, we had a very substantial number of applications for that work.

We may say, well maybe it is because there is a large number of persons being called to the bar. But Mr. LeSage and the others who were doing it, interviewed a large number, and we were able to have a choice of a very fine group of people.

**Mr. Lawlor:** I'm interested in that. That was my next question, how you engaged them. Do you interview them personally, Mr. Minister?

**Hon. Mr. Bales:** No, I don't. I leave that to Mr. LeSage and others within the ministry; and they do interview almost all of them. They have to go through the applications, but they give careful consideration and we have personal interviews.

**Mr. Lawlor:** If I may ask, do they, first of all, peruse their scholastic record?

**Hon. Mr. Bales:** That is right. That is the record.

**Mr. Lawlor:** Do they interview them person to person, or is it by way of a panel interviewing them or—

**Hon. Mr. Bales:** Person to person, personal interviews.

**Mr. Lawlor:** What is your name again?

**Mr. LeSage:** LeSage.

**Mr. Lawlor:** Mr. LeSage now interviews them all personally?

**Mr. LeSage:** Yes.

**Hon. Mr. Bales:** Mr. LeSage, you will appreciate, used to be in the Crown attorney's office in York.

**Mr. Lawlor:** In Toronto?

**Hon. Mr. Bales:** In Toronto.

**Mr. Lawlor:** Do you interrogate them as to their intentions; and the preciousness of their motives, I mean?

**Mrs. Campbell:** And their social credit.



**Mr. Lawlor:** In the past, you know, people seized upon the job of Crown attorney as an inter-measure only. It was a sweet way to pick up a lot of court experience. They were in an enormous hurry and in two or three years they were off and would be lost—the dereliction was tremendous. They were off practising criminal law, making three times as much, having garnered the experience.

Are you concerned with that particular kind of mentality entering into the service?

**Hon. Mr. Bales:** Well, we like to see people come into the service and hopefully make a career of it. But you have to recognize—we all know that people today are going to move around, are going to do other things. But certainly we want to know if it is their intention of coming and staying a year or two years.

They may change their minds but there has to be quite a substantial amount of training provided to make them expert in their particular field and work. I like to see them stay for some years, but people will change. They want to move for one reason or another, and we do move Crown attorneys around the province to different areas.

**Mr. Lawlor:** Do you bind them to a contract?

**Mr. Callaghan:** No. No legal officers are hired on a contract.

**Mr. Lawlor:** I beg your pardon?

**Mr. Callaghan:** None of the legal officers are hired on a contract.

I think the thrust of the interview is to ascertain if they will give the public service a fair tryout. We suggest to them that they should look forward to working for at least three years—hopefully five. We recognize there will be reasons why they may only stay six or eight months, but we try and get them to approach the public service with an open mind, with a view to making a career in it if they are interested and if they find the work sufficiently challenging. We have a three per cent turnover on the Crown attorneys.

**Mr. Lawlor:** I was just going to ask, what is your attrition? It's about three per cent?

**Mr. Callaghan:** Three per cent.

**Mrs. Campbell:** That's pretty fair, considering!

**Mr. Callaghan:** It is a very challenging and interesting position.

**Mr. Lawlor:** It is a lot better than it used to be.

**Mr. Callaghan:** I think it must be one of the most interesting positions in the legal profession now. I would think anybody involved in it would say that.

**Mr. Lawlor:** When Mr. LeSage interviews the new recruit, do you go into consultation with the area Crown attorney? His placement is going to be at some particular spot and I suppose he must be compatible with the recruit. If you are putting him into York would the Crown attorney in the county of York be consulted in that process? Would he also go through an interview process?

**Mr. Callaghan:** He is interviewed by the county Crown attorney wherever he is going to be practising.

**Hon. Mr. Bales:** He is going to be working with him.

**Mr. Lawlor:** That is what I say. Does that interview take place first or second or conjointly or—

**Mr. Callaghan:** Sometimes the county Crown will refer the candidate to our office, or we will have an application from him upon graduation from the bar admission course. We will compile a list one way or another, and when Management Board approves the number that we can have, we then use the list.

If we have a candidate from a particular county whom the Crown there has met and is interested in and recommended, and meets our qualifications, we will then send him out there to see if it would work out between the assistant Crown and the Crown attorney on that basis.

**Mr. Lawlor:** Have you got qualifications over and above the law school certificate?

**Mr. Callaghan:** Do we have—pardon?

**Mr. Lawlor:** Do you have qualifications of some kind over and above the fact that he's—

**Mr. Callaghan:** I think, Mr. Lawlor, that the person we try to hire is the best candidate we can find. As they graduate more and more lawyers, we find we can increase the academic standard that we would like to have.

We are primarily interested in having somebody who isn't maybe keenly interested in commercial law and making a lot of money; who has an interest in the public service and

who has an interest in the law and trial work. I think those are essential.

Somebody who is interested in commercial work or real estate, or the other types of legal business, would really not be a suitable candidate for the job. Many young men, however, have the interests which we seek today.

**Mr. Lawlor:** From what the minister said previously I got the impression that you turned a fair number of people away.

**Mr. Callaghan:** I don't know that it is fair to say we turn them away. I think it is fair to say we interview large numbers—

**Mr. Lawlor:** Who want the job?

**Mr. Callaghan:** —who want the job; and we try to select the ones we think are most suitable for the job.

**Mr. Lawlor:** You have a buyer's market at the moment?

**Mr. Callaghan:** Yes. It is pleasant. It's a change.

**Mr. Lawlor:** Just one other question on this head. I think it's again important that the Crown attorneys be available, particularly before court. Do you give specific instructions to the Crowns to try and arrive half an hour and an hour ahead of time so that individuals wishing to see them and lawyers who are coming before them that day have a chance to talk to them?

**Mr. Callaghan:** They are supposed to be in their office at 10 after nine for 10 o'clock court. We would hope they are in the office in the courthouse; it doesn't necessarily always pertain. We do not issue a directive saying that if they don't their salary will be cut, or something, because they are professionals—

**Mr. Lawlor:** You haven't put a clock in the office yet?

**Mr. Callaghan:** No; there are no punch clocks. They're professionals and we expect them to act like professionals, I would hope. I know the problem—I have had it myself, trying to get to the Crown before court opens.

We continue to try and impress upon them the necessity of providing that service, not only to the members of the profession but to members of the public who may want to see them. When we get calls of complaint that it is not happening in a particular county, then we'll take steps to try and correct the situation. Again, we are dealing with professionals and we think reason and persuasion should work.

**Mr. Lawlor:** I just have a comment here. Do you remember Freddy Malone of blessed memory?

**Mr. Callaghan:** Very well. Put it the other way; who could forget him!

**Mr. Lawlor:** Remember, Freddy used to arrive at the office as the judge came into the room. And so we would all congregate around his chair while his honour, or his worship in those days, sat there looking over things; and everybody was whispering at the top of their lungs trying to get through to the beggar. That's all changed now.

**Mrs. Campbell:** Madam Chairman, just one question on this. Does this reflect any new thinking in the approach of the use of Crown attorneys in the family court? I am getting tired of the family court myself at this point.

**Mr. Lawlor:** Hammer it out, Margaret!

**Mrs. Campbell:** There is the feeling that as we get more and more people represented by lawyers, and very fine lawyers, in that court, on the other hand it is incumbent not to leave the prosecution—particularly of course in contributing offences—to the youth bureau. This has been a struggle.

Having had a full-time Crown attorney in the court I was in, we were reduced to two days. This is one of the reasons why your per se day cases went on until 10:30 at night; you wouldn't dare adjourn them, because it would be months before you would get them back on the list since the per se day cases were scheduled far ahead.

Is there some thinking that this could be reviewed and that perhaps, because of the increase in complexity of the cases there, you might consider putting a Crown attorney in there on a full-time basis again?

**Hon. Mr. Bales:** We've been trying to provide them over there. We've had some difficulties.

**Mrs. Campbell:** But you just had two days.

**Hon. Mr. Bales:** Right!

**Mrs. Campbell:** We were originally allowed one day.

**Hon. Mr. Bales:** It was increased by one.

**Mrs. Campbell:** Are you looking at more?

**Hon. Mr. Bales:** Yes.

**Madam Chairman:** Shall item 2 carry?



**Mr. Parrott:** I want to ask one question. The coroners are not under your ministry, are they.

**Hon. Mr. Bales:** No, they are under the Solicitor General.

**Mr. Parrott:** I'm saving a question for him, but I want some relative comparisons. What has been the increase in salaries on a percentage basis in the last 10 years? What is the graduation? Has it been rather marked? Can you give me a general answer on that?

**Hon. Mr. Bales:** Do you mean for Crown attorneys?

**Mr. Parrott:** Yes.

**Hon. Mr. Bales:** Oh, I would think it's almost doubled.

**Mr. Parrott:** Almost, or more than doubled?

**Hon. Mr. Bales:** More than doubled.

**Mr. Parrott:** More than doubled in 10 years?

**Hon. Mr. Bales:** No, less than that.

**Mr. LeSage:** I started almost exactly 10 years ago at \$5,000. The starting salary now is between \$10,200 and \$10,700.

**Mr. Parrott:** Are there any Crown attorneys hired on a part-time basis at a per diem rate?

**Hon. Mr. Bales:** That's right. There are part-time assistant Crown attorneys.

**Mr. Parrott:** And that rate hasn't changed by the same percentage?

**Hon. Mr. Bales:** No, it has changed some, but not too much.

**Mr. Parrott:** What's the reason for that?

**Hon. Mr. Bales:** What do you mean?

**Mr. Parrott:** I can understand the necessity for increasing salaries for full-time Crown attorneys, but why not the per diem rate? If the full-time man's salary is increased why wouldn't there have been some consideration given to the rate for a part-time Crown attorney.

**Hon. Mr. Bales:** Well, you increase the full-time person because that's his total remuneration. The part-time people are there and willing to serve. They were receiving a fair and reasonable rate before—not what they might earn if they were in private prac-

tice and appearing before the courts that day, but a rate at which they're willing to serve from time to time; not all the time, but from time to time.

**Mr. Parrott:** Is this like a university appointment in the sense that there is the honour—

**Hon. Mr. Bales:** To a degree there is, in appearing on behalf of the Crown before the courts.

**Madam Chairman:** Shall item 2 carry?

**Mr. Lawlor:** No, Madam Chairman. Is the education of Crown attorneys being updated all the time? Do you have seminars for them? How do they take place?

**Hon. Mr. Bales:** I will ask Mr. LeSage to deal with that, but there is a regular programme; they have an association and meet regularly. For example, in the summer we bring in one group in July and one group in August for a period of time here.

**Mr. Lawlor:** For how long?

**Hon. Mr. Bales:** One week.

**Mr. Lawlor:** Where do you bring them and what do you do?

**Hon. Mr. Bales:** They come to New College at the university; they stay there for the week. It's a regular programme.

**Mr. Lawlor:** Professors of criminology, and so on, give lectures on divers subjects.

**Hon. Mr. Bales:** Yes, Mr. LeSage will direct it. He didn't last year, but he will direct it.

**Mr. Lawlor:** Do they stay here overnight? Do they stay here on a weekly basis.

**Hon. Mr. Bales:** They stay here for the week at the college.

**Mr. Lawlor:** Exactly; I see.

**Madam Chairman:** Shall item 2 carry?

**Mr. Lawlor:** No, one other question. Item 2 this year says criminal prosecutions. Previously it said prosecutions and appeals. Why?

**Mr. Callaghan:** It is included in that item. The appeal is part of the criminal prosecution. If you have any questions on appeal, they would be included.

**Mr. Lawlor:** Oh, you do mean to include appeals?



**Mr. Callaghan:** Oh, definitely.

**Mr. Lawlor:** That's fine. Okay.

**Madam Chairman:** Shall item 2 carry?  
Item 2 agreed to.

Is item 3 carried?

**Mr. Lawlor:** Well, this—

**Madam Chairman:** Is vote 1204 carried?

**Mr. Lawlor:** No, Madam Chairman. Your expedition bewilders me.

**Hon. Mr. Bales:** She's a very efficient and able chairman.

**Mr. Lawlor:** She sounds like a judge in the Supreme Court of Ontario. Judgements!

**Hon. Mr. Bales:** Oh, no!

**Mr. Lawlor:** I wonder if you'd consider, Madam Chairman, allowing me to put this particular matter I want to go into Crown legal advisory services a bit, but I would welcome a reprieve until tomorrow. I think we are moving along very nicely, Madam Chairman.

**Madam Chairman:** Well, we've got a few more minutes, if you want to start in. What did you want to do? Civil litigation and legal advisory services?

**Mr. Lawlor:** Your accommodation also bewilders me.

**Madam Chairman:** I am watching the clock. We have five minutes left.

**Mr. Parrott:** No imports at this time of night.

**Mr. M. Cassidy (Ottawa Centre):** What's that? I was here earlier in the evening.

**Madam Chairman:** We are on to civil litigation and legal advisory services.

**Mr. Cassidy:** Madam Chairman, before you go there, I just wondered whether we have finished with item 2.

**Madam Chairman:** We are onto this now.

**Mr. Cassidy:** Pardon?

**Madam Chairman:** We are onto item 3.

**Mr. Cassidy:** Oh, I understood from the member for Lakeshore that you were just leaving criminal prosecution.

**Mr. Lawlor:** We are just beginning to leave it. That's right.

**Madam Chairman:** We have voted it. We are onto civil litigation and legal advisory services.

**Mr. Cassidy:** I was asking, Madam Chairman, if I could bring up a point under criminal prosecutions.

**Madam Chairman:** It's just been carried. Your colleagues covered it very well, I assure you.

**Mr. Lawlor:** I'm afraid I didn't cover the point in question.

**Madam Chairman:** It has been the custom of this committee to grant the greatest amplitude with respect to estimates. The new regimen that you are seeking to introduce is unpalatable to the opposition. I've seen us go on to votes way down to the bottom of the items, and with the supreme aristocratic suavity that the chairman always possesses, he says: "Oh, of course, you may come back." These are important matters to be discussed. The member is caught up in the House. If you want to run a two-ring circus, then I think there should be a little flexibility.

**Mrs. Campbell:** It may be three-ring pretty soon.

**Mr. Lawlor:** I would ask you to let my colleague have a word or two and that'll get us over to the half hour. Thank you.

**Madam Chairman:** The real fact is that he was here. I think that had he persevered—

**Mr. Lawlor:** If I have to filibuster to get through to 10:30, I'll do so.

**Madam Chairman:** —if he had persevered, as other members had, he would have had lots of time to raise the points he wished.

**Mr. Cassidy:** Madam Chairman, with great respect, that is ridiculous. I gather you are going to give me time.

**Madam Chairman:** The fact is, if you wish to raise your question, go right ahead. I will admit it this time, but I won't always entertain such flexibility.

**Mr. Lawlor:** Of course you will, Madam Chairman.

**Mr. Cassidy:** Madam Chairman, I am quite in agreement with you that, had I come in a half hour after you had finished the item, I would have no defence.

I would just like to ask the minister a question in relation to a particular case which

has recently concluded in the town of Hawkesbury, involving a defendant named John Sentimore, and one other defendant.

What was the cost of the investigation into that case and of the preparation of that criminal prosecution in which something over 100 charges of theft and possession were laid, all of which have been thrown out by the courts? It involved, I believe, a total of something like three to four weeks of court time and has involved bringing to the courtroom witnesses from across the country and possibly from outside the country. What was the cost to the Crown of that prosecution?

**Hon. Mr. Bales:** What case is it?

**Mr. Cassidy:** Pardon?

**Hon. Mr. Bales:** What case is it?

**Mr. Cassidy:** It's a series of charges laid against one—

**Hon. Mr. Bales:** Is this the case before His Honour, Judge Chartrand?

**Mr. Cassidy:** I don't know the name of the judge. However, it's in the—

**Hon. Mr. Bales:** I don't know to which case you are referring, really.

**Mr. Cassidy:** I have written the minister about this particular case.

**Hon. Mr. Bales:** When?

**Mr. Cassidy:** I wrote to the minister about five months ago.

**Hon. Mr. Bales:** If that was the case, it was then before the courts.

**Mr. Cassidy:** Yes, that's right.

**Hon. Mr. Bales:** I remember it now.

**Mr. Cassidy:** Yes. That is correct. The case is no longer against the court.

**Mrs. Campbell:** Not against the court; it is before the court.

**Mr. Cassidy:** Before the court; I beg your pardon.

**Mr. Callaghan:** I think that case is still before the court.

**Mr. Cassidy:** The case has been decided.

**Mr. Callaghan:** It has been appealed.

**Mr. Cassidy:** Eight charges have been appealed and are not subject to discussion in

this committee. However, on the remaining 100-odd charges, the period for appeal has passed and the Crown has chosen not to appeal them. It is those charges which I am asking the minister about.

**Hon. Mr. Bales:** Quite frankly, I cannot answer your question at the present time. I will endeavour to ascertain the information, if you give me explicit detail.

**Mr. Cassidy:** I wonder if I could ask, is it the practice—

**Hon. Mr. Bales:** You can appreciate that one doesn't carry those kinds of figures around.

**Mr. Cassidy:** One would like very much to have some explanation from the Attorney General's ministry as to what on earth is going on in this particular case.

A matter which apparently began as a dispute between two private individuals was then elevated to a criminal prosecution of enormous complexity and on which an enormous amount of time was spent. One only has to assume that if that amount of money is to be spent in a remote area of the province, it had the sanction of senior officials of the ministry, if not of the minister himself.

**Hon. Mr. Bales:** Wasn't this a case in which the persons were trading in guns?

**Mr. Cassidy:** That is correct.

**Hon. Mr. Bales:** Isn't this the case about which you asked me certain questions in the House?

**Mr. Cassidy:** That's right.

**Hon. Mr. Bales:** Quite frankly, I don't think they should be trading in guns in that way and that was one of the reasons that that case was dealt with.

**Mr. Cassidy:** Can the minister explain himself a bit further?

**Hon. Mr. Bales:** The persons were trading in guns.

**Mr. Cassidy:** Is that an illegal activity in this province?

**Hon. Mr. Bales:** It is a question of the intent behind the trading.

**Mr. Cassidy:** If the minister would be more explicit; if the minister wished to bring in—

Hon. Mr. Bales: I am not going to get into the discussion of a case which is before a court of appeal.

Mr. Cassidy: Is the minister then aware of the sections of the charges which are being appealed, and of the gravity of those?

Hon. Mr. Bales: I think they relate to the whole offence.

Mr. Cassidy: I would correct the minister. The portions being appealed, in fact, are trivial.

Madam Chairman: Mr. Cassidy, it is now after 10:30 and I think I will entertain a motion for adjournment.

The committee adjourned at 10:30 o'clock, p.m.

## CONTENTS

---

Tuesday, May 1, 1973

Law officer of the Crown programme, concluded .....	S- 95
Administrative services programme .....	S-100
Guardian and trustee services programme .....	S-111
Crown legal services programme .....	S-115
Adjournment .....	S-124





# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

OFFICIAL REPORT — DAILY EDITION  
Third Session of the Twenty-Ninth Legislature

**Thursday, May 3, 1973**

**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973

## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 3, 1973

The committee met at 3:27 o'clock, p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

**Madam Chairman:** May I please have the substitutions? Mrs. Campbell for Mr. Worton. You are substituting, are you, Mr. Lawlor?

**Mr. P. D. Lawlor (Lakeshore):** Oh yes, I am substituting for somebody.

**Madam Chairman:** Mr. Lawlor, you are substituting for Mr. Stokes. And Mr. Renwick, you are substituting for—

**Mr. J. A. Renwick (Riverdale):** Who is left?

**Madam Chairman:** Mr. Deans. Mr. Cassidy?

**Mr. M. Cassidy (Ottawa Centre):** There is no one left to substitute for.

**Madam Chairman:** Mr. Martel.

**Mr. Cassidy:** I'm substituting for Mr. Martel.

**Madam Chairman:** The meeting will come to order. We are at page J18, vote 1204, item 3, civil litigation and legal advisory services.

**Mr. Cassidy:** Madam Chairman, it was item 2, I believe.

**Madam Chairman:** We have taken a vote on that, Mr. Cassidy—

**Mr. Cassidy:** No, we did not.

**Madam Chairman:** —and we had concluded it. We are now at item 3.

**Mr. Lawlor:** You had been persuaded on that occasion, Madam Chairman, to reverse yourself, if I may say so.

**Mr. Cassidy:** Yes, that's right. I had begun to speak on the subject and I had a few comments to direct to the minister on crim-

inal prosecutions. If you recall, I had come in in order to speak on that particular item and missed it by a minute or two, but had the agreement of the committee to continue on vote 1204, item 2.

**Madam Chairman:** Oh, I understood that you had concluded.

**Mr. Cassidy:** No. There wasn't time to conclude because it was at the very end of the day.

**Mr. Minister,** I was raising the particular case with you of charges against Mr. John Sentimore in Hawkesbury. Perhaps I can refresh your mind about matters which raise some pretty serious questions of due process in my mind. I realize that due process is not entirely accepted as a principle in Canadian law. Nevertheless, the kinds of abuse that took place in this particular case do raise some pretty serious questions about your department.

In this particular case, police raids were carried out on the word of a former employer who apparently had some kind of civil dispute with the accused.

Two raids were carried out on search warrants which were subsequently proved invalid and were quashed in the Supreme Court.

Third, despite an indication very clearly through the accused's lawyer that he was willing to co-operate, one of the raids was carried out between about 11 in the evening and about 4 in the morning by six or eight OPP dressed in rough outdoor clothes rather than in uniform, with very natural frightening effects on wives, children and other people who occupied the place.

Fourth, a large amount of goods was seized by police simply on the word of the former employer that "That's mine, that's mine, that's mine."

Fifth, the local Crown attorney refused to handle the case, I understand, and therefore it was taken up by your office in Toronto.

Sixth, an extreme number of charges were laid, almost all of them on the grounds of



theft and possession. None of them specified a specific time for the offence.

Seventh, after the preliminary hearing took place, in a very unusual kind of development, the 111 original charges were rewritten, reduced to 65 charges, and had the nature and content of a number of them changed by adding certain individuals and companies from whom it was alleged that the goods were stolen.

Perhaps you can comment on that, Mr. Minister. Is that the normal way in which your department runs things?

**Hon. D. A. Bales (Attorney General):** Mr. Cassidy, if you would like to make all your comments, then I'll reply. This is rather a serious case.

**Mr. Cassidy:** I realize it is a rather serious case.

I might say that the minister, in response to some questions about using the powers of his department in order to try to bring to law a person who had stolen his two children from his wife who had legal custody, said to me a year ago that the powers of criminal law should not be used when it is essentially a civil matter.

Perhaps he can comment on that in this case too. It may or may not have been a civil matter. I don't want to judge that aspect of it.

**Hon. Mr. Bales:** It wasn't.

**Mr. Cassidy:** However, I think he would like to comment on that.

Next, the minister said on Tuesday evening, "That kind of thing should not go on"—the kind of thing that those people were doing. He referred specifically to their business, which was the sale of weapons, and I'd like to ask him the meaning of that.

Does he mean that people who are seeking to carry on a legitimate business in the Province of Ontario were in fact not carrying it out within the confines of regulation or policy as laid down by the provincial government? If so, why weren't they charged on that particular basis? Or does he mean that charges of theft and possession and other things were used in order to prevent them from carrying out the business which they sought to carry out?

Finally, the charges of theft and possession have all been dismissed and are not being appealed, and the deadline for an appeal has now passed. Therefore, they are properly able to be discussed in this room.

A handful of charges—nine, I think it is—have been appealed. Is the minister aware that the effect, so long as the appeals drag on, is that these individuals are prevented from carrying on their business, because the licensing authorities are refusing to grant them a licence to carry on their business because of the appeals.

It's rather difficult to raise this because it is before the courts. However, without judging the whole case, the whole attitude and actions of the department in this case have bordered on harassment. They have certainly used illegal procedures as evidenced by the Supreme Court, and I ask the minister, what on earth are you doing?

**Hon. Mr. Bales:** Madam Chairman, as I said before, this is a serious case. It's a criminal offence to have firearms of this nature. There were a number of charges. Some of those charges were dismissed by the judge. There are other charges on which we are proceeding to appeal. There were certain instances in this case: Guns were hidden in the walls of the building where they were found; they were automatic firearms.

**Mr. F. W. Callaghan (Deputy Attorney General):** Bren guns.

**Hon. Mr. Bales:** Yes, as the deputy reminds me, they were Bren guns. This is the kind of thing that causes the police authorities grave and serious concern.

Mr. Cassidy, this man was represented by competent solicitors. We have a letter sent to us by the defendant's solicitor in January of this year. I'm not going to read all of it but I am going to read parts of it. I'm not picking out particular areas, but it says this in the second paragraph:

I have indicated to all those who inquired about the merit of 111 charges that I was of the opinion that the case, as prepared and presented, was very thorough. I have had the opportunity of reviewing all of the material and I am of the opinion that there were grounds for proceeding in each count.

Since the counsel has been involved in this case, the matter has been dealt with on an honest and fair basis, and any arrangements made between the counsel and myself were made to expedite a matter which is very lengthy and complicated.

This matter is before the courts on appeal. None of us in this room wants to prejudice anyone whose case is being heard. For that reason I think, Madam Chairman, that I have

said about as much on that case as I should say.

**Mr. Cassidy:** Would the minister comment on the illegal searches—why they were necessary and why they were carried out?

**Hon. Mr. Bales:** They were not illegal searches.

**Mr. Cassidy:** The search warrants were proved to be invalid, correct?

**Hon. Mr. Bales:** This is a case where you are dealing with firearms that the police had good reason to believe could very expeditiously be transferred and made into weapons dangerous to the safety of the public at large. That is the basis and the reason for the proceedings. If there is anything else, the deputy has much of the technical information.

**Mr. Cassidy:** I am sorry, the minister has not yet commented on the use of illegal search warrants, and therefore the illegal searches that were carried out.

**Hon. Mr. Bales:** I am not making any comment on what you allege to be illegal search warrants.

**Mr. Cassidy:** I am not alleging it; it was found to be so by a court of the Province of Ontario, the Supreme Court in Ottawa.

**Hon. Mr. Bales:** I am not aware of that.

**Mr. Cassidy:** The search warrants were quashed as being illegal. As I say, I am aware that illegal evidence is not rejected just for that reason in Ontario courts—that is something which ought to be changed—but I do question the way in which the department carried on in this case and the use of illegal evidence. It seems to me—

**Hon. Mr. Bales:** I think the defence counsel's remarks in his letter to me speak for themselves.

**Mr. Lawlor:** Yes, but, hypothetically, if the search warrants were illegal for any reason, is it in your demesne to move in on that situation? If those search warrants were illegal—and it is my information, too, that the court found that they were—why it—

**Hon. Mr. Bales:** It doesn't say they were illegal, they were quashed by the court.

**Mr. Cassidy:** Well, they were ineffective and therefore the search was illegal.

**Mr. Lawlor:** The practice of issuing search warrants of this particular kind—look at the

Watergate affair—is much too pervasive and the whole mentality of the illegality is much too deep these days. It penetrates here as well as anywhere else, and that is just the sort of thing that we find most unpalatable and which we haven't been subject to in the past.

**Hon. Mr. Bales:** That is right, nor should we.

**Mr. Lawlor:** Nor should we. And if you get a breath of that kind of thing you ought to move in on it.

**Hon. Mr. Bales:** All right, but this matter is before the courts, on appeal on certain of the charges only. When it has been dealt with properly by the courts, fine, we will have the total picture. But we have the words of the defence counsel that the matters, in his view, were dealt with properly. There were charges before the court that he felt to be sound. They were dismissed, sure, and he worked to that end, but he felt that on that basis they were there and there was reason for them to be there.

**Mr. Cassidy:** Madam Chairman, I am not a lawyer and I haven't been involved in this, but it is surely a bit naive to expect the defence counsel in response to a letter from the minister's department to say, "No, it was all unjustified. You are full of —," you know. Would defence counsel say that?

**Hon. Mr. Bales:** May I make this clear, he wasn't writing to me in response to a letter from me. He was writing to me in response to a letter from you, of which he received a copy.

**Mr. Lawlor:** Madam Chairman, there are two minor matters I would like cleared up. I just want to know if the Attorney General was consulted with respect to what I call the East York experiment, that is, to keep cases involving juveniles out of court.

**Hon. Mr. Bales:** With the assistance of the police? They work with the police?

**Mr. Lawlor:** Yes. You were consulted and your opposite number, Mr. Lang in Ottawa, was—

**Hon. Mr. Bales:** It was really run by the federal Law Reform Commission, and they had discussions with our people about the matter.

**Mr. Lawlor:** You favour co-operation with the federal Law Reform Commission under this particular head?



**Hon. Mr. Bales:** Very much.

**Mr. Lawlor:** Because I am in favour of that. You are, too?

**Hon. Mr. Bales:** Oh yes, so are we. Mr. Justice Hart spoke to us about this matter, that it was going to be done, and we discussed it. The deputy was in on the conversations.

**Mr. Lawlor:** Just one final thing, on grand juries. You have always been kind enough to give me the statements of the grand juries of the county of York of most recent date. I now have a ponderous pile and I don't intend to bring it into these estimates this year—I understand a bill will be introduced fairly soon in the House and we can deal with the matter then—

**Hon. Mr. Bales:** That is right.

**Mr. Lawlor:** —but I would ask you to let me have the most recent grand jury statements. Thank you.

**Mr. Renwick:** Madam Chairman, if I may bring up a comment about an area that is of concern to me and that has four or five ramifications. I would ask, Madam Chairman, that if the minister has already dealt with the matter in the evening when I wasn't here, then please do not hesitate to say so, because I don't want to spend the time on repeating matters which have already been dealt with.

The area which concerns me, Madam Chairman, is what I would term the interface between the police function and the administration of justice function, insofar as it affects accused persons. I will be putting somewhat similar questions, particularly with emphasis on the police aspect of it, before the Solicitor General (Mr. Yaremko), if this three-ring circus permits me to do so.

What I am particularly concerned about is—and I asked the questions in the fall session—I am very anxious that the minister make a very clear statement either now or in the House, of what exactly the significance of absolute and conditional discharges is so far as the law is concerned. I am not asking him to make a statement now about it, but I would ask him to take it under advisement so that it would be carefully stated.

There is an immense misunderstanding with respect to the grant of an absolute discharge and the grant of a conditional discharge which becomes absolute, and the subsequent effect upon a person's record. That is the first area. Apparently it is transferred from some

file to some other file and it doesn't, in fact, amount to a person having no record. The record is there and it is available again, but the public misunderstands it.

**Mr. Callaghan:** You are really concerned, I think, about the conflict which exists between the Criminal Code and the Criminal Records Act? There is a fundamental conflict in the legislation there, where one establishes an absolute discharge and then the other, in describing what records will be sealed and put away, refers directly to that absolute discharge, indicating that even if you do have it you still have a criminal record of some sort that is going to be looked at under the Criminal Records Act. That conflict arises, I think, between the provisions of section 2 of the Criminal Records Act and section 662 of the Criminal Code.

**Mr. Renwick:** I am sure that is where it is. I certainly wouldn't disagree, I don't have that expertise on that question, but I was very much impressed by His Honour, Provincial Court Judge Tinker, who, specifically, when he is dealing with this matter, makes it perfectly clear that an absolute discharge is not what it purports to be. I think from the point of view of the public in Ontario it is essential that that kind of a statement be made in the Legislature and, of course, whatever the minister can do should be done to clear up the anomaly in the legislation and the contradiction which exists.

**Hon. Mr. Bales:** Madam Chairman, I am going to see Mr. Lang next week and this is one of the matters that is up for discussion.

**Mr. Renwick:** If I may presume to say so, if you could ask His Honour, Provincial Court Judge Tinker to dictate on to a piece of paper what he, in fact, states in the court—which I think is a very clear, concise statement of what the law must be—it would be most helpful.

The second aspect—and perhaps the minister is going to deal with this—is this whole question of records. The problem arises on a number of occasions—in job seeking in one instance, or if you are going to leave the country and go to some other country.

I have had occasion to go through this whole procedure of getting—what do we call it, clemency?

**Hon. Mr. Bales:** Executive clemency.

**Mr. Renwick:** Executive clemency under the Criminal Records Act.



**Hon. Mr. Bales:** That's a pardon under the matter that you wrote to me about last year.

**Mr. Renwick:** Yes, that's right.

The reason that the man wanted the pardon was not only that he hadn't committed any offences for some 20 years and that those arose when he was in his late teens, and so on; but because he wanted to be able to go to the United States for the work in which he was involved. On occasion he could get work if it wasn't available in Canada.

I made the application naively thinking that when I got this document, the fellow would be fine; he could cross the border. The grandiose language in which it is couched would indicate that he had been pardoned of nothing short of treason on the high seas. If he were ever to produce it crossing the border into the United States, or some other country, they would just never allow him to be there.

Interjections by hon. members.

**Mr. Renwick:** Now, I think some less formal-looking document which would indicate quite clearly to him that, you know, "It's all over. Mr. So-and-So, and you now have no criminal record in Canada."

**Mr. Callaghan:** It should be a statement that he has no criminal record.

**Mr. Renwick:** Is it the statement of fact which is involved—

**Hon. Mr. Bales:** A simple statement.

**Mr. Renwick:**—rather than the admonition for him never to commit it again?

And if you haven't been fortunate enough to see one of these, it is an extremely archaic document.

**Hon. Mr. Bales:** I think I have, yes.

**Mr. Renwick:** But it certainly does not accomplish the purpose for which one applies for it.

**Hon. Mr. Bales:** I had to apply to the federal people several times, and one of them came to me; I've read it.

**Mr. Renwick:** But there's that aspect of it. The next aspect of it that I would like very briefly to comment about is the related question of the identification, the photographs and the fingerprinting. That very brief statute, of course, refers to the fact that if a person is charged with an indictable offence, he can

be asked to go to police headquarters and be photographed and fingerprinted.

It seems to me there are half a dozen points involved in that. If the person then comes on for trial and is acquitted, or the information is withdrawn, there is no known procedure by which you can get the photographs or the fingerprints off the record.

You may, by asking politely, perhaps have the police headquarters in certain cases deign to destroy them for you—if you made an issue about it.

But as part of the actual procedure which is involved, a person can be charged with an indictable offence, he can be photographed and fingerprinted, he can then be acquitted or the information can be withdrawn, and there is no known procedure which is automatically taken, or even on request, by which police headquarters will then destroy the fingerprints or the photographs, or that the record which is sent to Ottawa is destroyed and removed.

I am not suggesting—you know my penchant for the sort of civil libertarian aspect of it—there may very well be sound police arguments for it. But I don't understand them myself, if there are. And it seems to me that it is very essential that that aspect of the fingerprinting and the photographing in the cases where people are acquitted should be removed.

Then you have the other anomaly that in many cases they photograph and fingerprint people on charges which are triable on indictment or by summary conviction. You go into the provincial court and the Crown elects to proceed by summary conviction, but the photographs and the fingerprints are already a matter of police record.

Of course, as we all know, for visiting purposes to a number of countries, as well as for emigration from Canada to other countries, the thing which they ask for is not something called his criminal record or evidence that he has no criminal record; they ask for a police record.

**Hon. Mr. Bales:** They really ask the question, in essence: "Have you been charged?"

**Mr. Renwick:** They ask whether you have been charged. And they are not interested in getting something from the Attorney General of Canada or the Minister of Justice of Canada. They are not interested in that; they are interested in a document or certificate issued by the chief of police.

It happens to come up in emigration and immigration matters, reciprocally, more often

than in internal matters. But I think it is extremely important that this whole area of our criminal law, should also be clarified and the procedures clearly understood about those matters.

I think also, of course, that there is a very real area of alleviation of the whole problem because there are people who are charged on indictable offences where the fingerprints and the photographs should be destroyed, even in the event of a conviction. It may be after a lapse of time that those records should be destroyed.

I did cite the case of the two young girls, whom I acted for, who pleaded guilty on my advice. They were put on three months' probation, but they already had been photographed and fingerprinted. My guess is that they'll never commit another offence. Certainly three or four years from now they should be in a position—say when they reach their age of majority, of 18, or when they become 21 or after some other specified lapse of time—that they should be able to apply and get their photographs and fingerprints taken from the record.

Now, a similar matter which I had raised with your predecessor is my continuing concern about the federal government's writs of assistance, those open—

**Mr. Lawlor:** May I interject there, just a moment? Is it not the situation that with the nature of a summary conviction offence, as opposed to an indictable one, they ought not, in the first instance, to take the photographs and the fingerprints, or a person can resist their doing so?

**Mr. Callaghan:** Under the Identification of Criminals Act—the federal statute—if you are charged with an indictable offence, you are obliged to be fingerprinted; that is logical, quite logical.

**Mr. Lawlor:** Logical, yes.

**Mr. Callaghan:** Now, there is no such provision for situations where you are charged for a summary conviction offence.

**Mr. Lawlor:** But yet the police do it massively, don't they?

**Mr. Callaghan:** Well, no, with respect, I don't think they do.

**Mr. Lawlor:** Well, I have a case at the moment—shoplifting.

**Hon. Mr. Bales:** Yes, but I don't think they do it every time.

**Mr. Callaghan:** They may. Well, shoplifting is theft and theft is indictable.

**Mr. Lawlor:** Well, I know, but it will be tried summarily, of course.

**Mr. R. F. Ruston (Essex-Kent):** Madam Chairman, I had something on the same thing there as Mr. Renwick. I had a fellow come to me the other day who was applying at one of the airports for a position where they screen people who are travelling. He had an impaired driving charge against him from 1969 and he said that this was of some concern in his application; that this would block his application for this type of position.

What is the situation on something like that? Is that still on the record?

**Hon. Mr. Bales:** Well, it depends on the period of time.

**Mr. Ruston:** It was in 1969 and his charge was for impaired driving.

**Hon. Mr. Bales:** I'd have to check the statute, but I think it is a period of five years before you can have it removed. We've had several—

**Mrs. M. Campbell (St. George):** Well, Madam Chairman, just—

**Hon. Mr. Bales:** Mrs. Campbell, if I could just have a second, I've several—

**Mrs. Campbell:** Yes.

**Hon. Mr. Bales:** —letters of inquiry lately about situations like this and we've been looking into that.

**Mr. Ruston:** Yes.

**Madam Chairman:** Now, Mr. Renwick, have you anything further?

**Mr. Renwick:** Yes, there are two or three other items in connection with this same sort of interfaced problem of exactly what happens.

I was unable to be here at the time of the legal aid vote, but it doesn't matter because my comments about the legal aid system are, I think, sufficiently important that I am going to try to make them when I speak on the budget; and I am not infringing or trying to bring that vote back into life when I make these other points.

I am very much concerned that the greatest defect in our criminal law system—if I may use either a plumbing term of a consulting management term—is at the intake.



**Hon. Mr. Bales:** Interesting comparison you make—plumbing.

**Mr. Renwick:** This is where the problem seems, to my mind; that the system is de-meaning and destructive of the very concepts that we try to embody in our system. And yet it's the very point that we pride ourselves on, that we've done something effective by instituting a system of duty counsel.

The reason is that the elapsed time spent by the duty counsel, provided at the expense of the Province of Ontario, with any given person who has been arrested and is in the old city hall cells—in Metropolitan Toronto, anyway—is negligible. The accommodation for interviewing them is non-existent.

Anyone who has tried to speak through the little hatch in the two cubicles provided in the cells down in there, with 100 to 200 other people walking up and down in the cells at the same time and talking, will recognize that when I say it is non-existent, it just doesn't exist.

The legal profession has allowed itself to be used for the purpose of expeditiously introducing people into the chain of the system; not for the purpose of advising the person with respect to his rights and protecting the rights of the individual at that level. I think it is absolutely essential that there not be that urgent pressure to get these individuals into the system. It seems to me that the old city hall is sufficiently large—

**Mr. Ruston:** It must be quite a place down there.

**Mr. Renwick:** —that it's quite possible to deal with the security aspect of it in such a way that every individual is entitled to a conference room area. All that means is that you can put any number of private cubicles into a very large room. But he is entitled to have five, 10, 15 or 20 minutes' time with the duty counsel on his particular case.

Also the duty counsel should be provided with the dope sheet so that the evidence is available. We should stop playing the game that somehow or other the dope sheet is not an available item from the defence. The duty counsel should have rapidly and efficiently a statement about the person in front of him, from himself, from the police and with respect to any previous record, so that in the exercise of his very best judgement, duty counsel can advise that person what to do.

It defeats our system of belief in the representation of people in the courts. You

can't deal with every individual who says, "I don't want a lawyer or anything else, I'm just going to plead guilty." I'm not talking about that marginal number of people, because most people would like to have some representation—somebody who can advise that person so that when he comes into court the duty counsel will be able to say, "Your Honour, I have interviewed this accused person," and His Honour will know that the interview has been a quiet, efficient, effective, informed interview, "and on my advice Mr. So-and-So is going to do such-and-such."

It seems to me that there is no other single improvement in the procedures of our courts that would re-emphasize the quality of what we all consider to be an important part of our British justice system, than to deal with the point at which the intake occurs. There are any number of other ramifications of it. I just don't happen to think that people who have already been convicted should be in custody in the same area with people who haven't been convicted. I think there are any number of physical amenity problems which are quite different between a person in custody after conviction and in custody before conviction.

Our problem is that the lawyers like myself who have occasion to go in there, realize it's been around for so long and every now and then we allow ourselves to become indignant about some particular scene which we have seen there, but we all get warped into the game. You can only be righteously indignant for so long, and before long you find yourself playing the same game.

You find yourself politely going to the cell door, rapping on the cell door, having the cell door open, and saying you want to see So-and-So. You sign the book, they call the man's name and they say, "Go around there." There are 200 people. You can't hear him, you can't talk to him, you have no method by which you can communicate with him. He is under, in many cases, tremendous psychological pressure. Some of them may be habitues in there and become quite accustomed to the routine. I don't.

But, again, I'm not asking the minister to defend the system, or to make an extended statement, or to get into any particular argument about it. I just want to express to him my view that it is at that point in time, so far as the administration of justice and the Minister of Justice are concerned, that the accused person has got to have the full benefit of the law; not the latter-day benefit later on up in the courts of the principles of



British justice to which we all pay our tribute, but in this area, where there's just no way that any objective observer could say that we uphold the principles we espouse in the higher courts.

**Hon. Mr. Bales:** Can I just reply to this one point you've raised? They are all significant, but I'd like to respond very briefly to this.

I think we have to bear in mind that the situation as we see it—you and I have seen it in the old Toronto courthouse—is not necessarily the system, or the facilities, that exist throughout the province. I have just as strong a dislike as you for the facility that's there now. We are trying to provide in that old city courthouse some better arrangement for interview rooms, so that they can consult in private, confidentially, and with a degree of quietness that isn't possible in that old system where you go by and talk through the grill, and all the other things.

I think we also have to bear in mind that in many instances the so-called dope sheet would be given and would be made available to a defence counsel.

**Mr. Renwick:** If you have time.

**Hon. Mr. Bales:** Yes. But you have to bear in mind as well that there is a good deal of information—it depends on the case. But frequently there is a good deal of background information on it for the assistance of the prosecution. But it's not evidence. It wouldn't be put forward as evidence, but it is background.

I think we have to bear in mind that the person is not being prejudiced by that. There's no intention at all that that is going to be produced as evidence, but it is background. I appreciate the points that you are making. It particularly disturbs me as to the facilities there and the lack of privacy. We have had numerous discussions on this and we have taken steps on it. It's going to be a little while.

**Mr. Renwick:** I think that's right, but, Mr. Minister, if I may just comment briefly, we must not blame it on the lack on facilities. If we have a clear conception of what we want to accomplish, the old city hall can be—

**Hon. Mr. Bales:** Oh, yes.

**Mr. Renwick:** —accomplish that purpose. There's ample room in there.

**Hon. Mr. Bales:** Well, that's what we're doing.

**Mr. Renwick:** Buildings no longer dictate the function. The function now dictates the structure and layout of the building, and the purpose for which you want to use it. I'm simply saying that before anybody appears in court he is entitled to have a reasonable interview with a duty counsel who can be informed expeditiously and efficiently, so that that person has some sensation that he is entitled to his protection as an individual citizen right from the very onset of the procedure. Otherwise, I think it's fair to say we're likely to get mesmerized by this version that since we now have duty counsel we've really solved a good number of the problems of the court.

I can use very strong language about the old city hall. My own guess is that in the major cities of the province, while the facilities may not be as dreadful, the intake procedures are just as inadequate. Certainly I have to make that elaboration for the purpose of making my point, but with no particular evidence to do it because I haven't appeared in Hamilton or Windsor or London or in Carleton. My emphasis is on the processing and the intake procedures, and the need to respect that individual as a citizen, and his liberties. I think there is no greater single improvement that we could make, and the quicker we make it the quicker we will be able to take some pride in our system of justice.

**Mr. Lawlor:** May I interject just on one point? I don't understand the minister. The closest facsimile we have to the dark hole of Calcutta is—why nostalgic and sentimental individuals don't want to tear down that mausoleum is totally beyond me—this business of coming through the floor like some kind of vaporific emanation or something like that—you know, the holes in the floor where the prisoners come up. They are all lined up there every day and the whole thing is a strain. The point I want to make has to do with this: Are you saying that as far as the dope sheet was concerned, there are circumstances in your opinion in which Crown counsel ought not to make disclosures of the dope sheet?

**Hon. Mr. Bales:** No, what I said is that with a reasonable request, usually they are made available. There may be occasions—

**Mr. Lawlor:** If Crown counsel doesn't happen to like—Let's put it this way: his friends get them, the fellows he chums around with and goes to lunch with—

**Hon. Mr. Bales:** Oh no, I don't think that. I can't buy that.

**Mr. Lawlor:** On the whole he is fairly jealous with the darned thing.

**Mr. Renwick:** Mr. Minister, there is every variation under the sun. It depends on the Crown, and on his relationship with you. Sometimes they hand you the dope sheet to read, other times they will read you the dope sheet, other times they will read you extracts from the dope sheet, sometimes they will open it up secretly and peruse it themselves and look up at you. There are just no rules. Yet the lawbooks all say that the defence counsel is entitled to disclosures of the evidence that will be brought against his client before the trial.

**Mr. Callaghan:** With respect, sir, that is not right. There is no law that requires the Crown to disclose its case any more than it requires the defence to disclose its case. In the Province of Ontario it has been left to the discretion of the Crown attorneys, and by and large I'd say they try to act fairly. The dope sheet contains a lot of confidential information which is simply background information for the Crown attorney. It is not for publication, it is not for anything other than to inform him as to the background of the case. By and large the instructions to the Crown are to tell you what the evidence is. I don't think it is under any obligation to show you its brief any more than you are under an obligation to show them your brief.

**Mr. Renwick:** They are required to tell you and to disclose to you, as a matter of law, the evidence on which they intend to proceed in the courtroom against your client.

**Mr. Callaghan:** As a matter of law they are not required to do that. As a matter of practice they do it.

**Mr. Renwick:** That is the second point of law I will deal with.

**Mr. Lawlor:** You can exert a demand for the particulars anyway. Certainly you can demand a list of witnesses of the Crown. Whether the Crown calls them or not is another question.

**Mr. Callaghan:** Quite true. You are entitled to the list of witnesses on the back of the indictment but I don't really believe any Crown in this province gets that technical.

**Mr. Renwick:** I am not suggesting that they do. All I am simply saying is that there is a wide divergence and I don't think that makes

for good administration of justice. I am not suggesting for one moment that each of the Crowns that I have had anything to do with tried to do a good job—a fair job. I am not saying that. I am not talking about individuals.

**Mr. Callaghan:** The question of disclosing the Crown's case before trial to defence counsel is a matter which is under active consideration, not only by the Crown attorneys' association but by the Law Reform Commission of Canada to which certain representations have been made. But we have discovered that the procedures adopted in other jurisdictions which formalize the disclosure procedure have made the process that much more stringent and inflexible. In fact they have bogged the system down in the jurisdictions that have introduced it.

What we are trying to do is maintain a flexible system that will give the defence counsel a full and complete disclosure. I certainly know that the instructions the Crowns receive are that the defence counsel is to have full and fair and complete disclosure. How they do it is left to their discretion and the dope sheet is really the same instructions that the police give the lawyer or the lawyer would get from a client.

I don't say the relationship between the Crown and the police is lawyer-client, but the instructions they receive must have some confidentiality in order that they can instruct the Crown attorney fully. For that reason the discretion has been left with the Crown to deal with these matters. It is not perfect but it is a lot better than some things that are happening in other jurisdictions.

**Mr. Renwick:** Right.

Madam Chairman, the only other area that I want to dwell on briefly is: We are not having many demonstrations at the present time in the city to back up this particular statement, but I am thinking of the occasions two or three years ago when demonstrations were broken up by the police and charges were laid. The net effect, if one had followed the number of charges that were laid and the ultimate resolution of those charges in court, would have indicated that there were very few that stuck. It raised a question in my mind as to whether or not at the time of the exercise of the right of lawful assembly, whether or not some studies shouldn't be made of the charges which have been laid in the city of Toronto in two or three of those demonstrations. It would be interesting for your own information as to what the disposition was.



Certainly on one of the Vietnam demonstrations when a reasonable number of people were arrested, the actual outcome in the courts was that substantially all of the information was withdrawn or there were acquittals. I am drawing no comparison between Canada and the United States, but I will make the one comment that when you get that kind of a situation we verge upon that one demonstration in the United States when they arrested literally hundreds of people and never proceeded at all, but used the device of laying a charge as a method of disbanding the demonstration and forcing it to evaporate and they wouldn't proceed with it to trial. I don't think that is the purpose of our system so far as charging people is concerned.

My last item, Madam Chairman, is on the question of bail. There were two statements, one by the minister and one by the Provincial Secretary for Justice (Mr. Kerr), at about the same time. I think the minister's statement was made before dealing with the compensation of victims of crime. I think it was made at some conference up in Ottawa, and the one by the Provincial Secretary for Justice was made around the same time, indicating that the fault in the use of the bail system was basically the way in which the judges were dealing with it. Those statements seem to me to be contradictory to what the minister said here in the course of his remarks—

**Hon. Mr. Bales:** I think they were.

**Mr. Renwick:** —that in fact it wasn't—that there was a very real effort being made by the provincial court judges mainly to exercise the new authority given to them in an intelligent and humane way. This was the purpose of the changes.

I would like to advert to my first point about decisions with respect to bail. The police have criticized this, yet they don't know what happens. They arrest somebody and they don't finally know when the man is let out on bail. The information doesn't go back to police headquarters, so they don't know that the person is back out on bail. I think it's a necessary part—

**Hon. Mr. Bales:** That's one of the practical problems.

**Mr. Renwick:** But the major point is: Would the minister give some indication of the use of the bail system, because of the serious criticism made of it by certain members of the police forces earlier this year. Also, the statements which he and the Provincial Secretary for Justice made seemed to me to be unnecessarily responsive to a certain

element of hysteria that was in the community at the time.

**Hon. Mr. Bales:** I have said in the beginning that I felt the purposes and principles behind the Bail Reform Act were right, and valid and that there had been a responsible approach taken to it by both the police and the judiciary. This is taking into account the difficulties of operating under the Act and frequently the lack of information that is in the hands of the police.

Since February I have had extensive correspondence with Mr. Lang in reference to this matter. We sent him a long letter recommending and suggesting certain amendments to the Bail Reform Act. Subsequently, some officials of his ministry came to Toronto and met with officials in the AG's ministry, Mr. Callaghan and others. They are working on possible amendments to that Act to make it more effective and to adhere to the principles behind the legislation.

Now again, this is another of the matters that we will be dealing with next week when I see Mr. Lang.

**Mr. Renwick:** May I perhaps, without accusing the Provincial Secretary for Justice of being responsible for the headline, but that was the headline that I was referring to—"Kerr Asserts Courts Are Responsible for Abuses Under the Bail Reform Act" and—

**Hon. Mr. Bales:** There has been a substantial change, I think, in fairness to all the authorities since the beginning of the year. CPIC has been in operation to a substantial degree and there is much more information available to the authorities now than there was in the first year of operation. It isn't complete, but they can reasonably ascertain information on those who are out on bail on other charges and where perhaps other offences have taken place—information that wasn't available to them in the first year.

Also the judiciary have, I think, been more mindful of the various clauses in the Act, the provisions for public safety and the effects on the public as a whole, but I still go back to the fact that the basic principle behind the Act is good and is valid.

We have to make it work. I think it does require some changes—not necessarily extensive—some significant changes to the bill. It is a matter of the interpretation, the wording of it which is confusing to a degree.

**Mr. Renwick:** Thank you. Again my experience is not all—



**Hon. Mr. Bales:** Mr. Callaghan just mentioned the Court of Appeal, in dealing with a particular case, and in referring to the language of the bill, called it obscure. It is that kind of thing—the difficulty the judiciary have in coping with these things.

**Mr. Renwick:** I think there are all of those arguments, but there is also the other point, which is the major one I want to make, relating back to my comments about the intake system. There is also a duty counsel, whether he is for the prosecution or for the defence, to inform the court honestly about the situation with respect to a bail application—

**Hon. Mr. Bales:** Yes.

**Mr. Renwick:** —no question about that. It appears to me there is no doubt whatsoever—and maybe this is too strong a statement, but I would be prepared to say it—that if there were an adequate intake system, an adequate information available to duty counsel in dealing with a case to show whether the person was still out on bail on some other charge or on other matters, and if that information were available in a more orderly way, then it may very well have been that that particular police constable would still be alive. That particular man was out on bail on the third or fourth drug charge, but that wasn't because some judge was abusing the system or because the Crown wasn't doing its job or anything else, it was just that the information wasn't available in the court at the time when the bail was granted. That is my assumption.

**Hon. Mr. Bales:** That is right.

**Mr. Renwick:** So again I perhaps come back to where I start, that that intake procedure is the—

**Hon. Mr. Bales:** I think we will see a great change there with CPIC in operation; it is Canada-wide—

**Mr. Renwick:** If I could just summarize. With great respect, Mr. Minister, I think we will be talking about the same system until some version of this intake system is introduced. There, in my judgement, is the place where the quality of our administration of justice must go up by leaps and bounds for the good of the public and for the good of the individual.

**Hon. Mr. Bales:** Madam Chairman, I marked this down particularly and we will take a clear look at it.

**Madam Chairman:** Mr. Renwick, does that conclude for you?

**Mr. Renwick:** On that particular aspect of it, yes.

**Mr. Lawlor:** May I just say a word—

**Madam Chairman:** Mr. Lawlor, will you just keep your question as Mrs. Campbell is ahead of you?

**Mr. Lawlor:** I think it should be on the record—

**Madam Chairman:** Mr. Lawlor, will you let Mr. Renwick proceed because Mrs. Campbell has a question ahead of you and I will come back to you again.

**Mr. Lawlor:** Is she on bail, too?

**Mrs. Campbell:** No, I was on the records way back and was told I had to wait until Mr. Renwick got through.

**Madam Chairman:** Let Mr. Renwick finish, he has the floor.

**Mr. Renwick:** You mean I still have the floor?

**Madam Chairman:** Yes.

**Mr. Renwick:** I know that the minister is very much concerned, as we all are, and I don't know how you tackle this problem. The police, the Solicitor General, the Attorney General, the administration of justice and the Minister of Correctional Services (Mr. Apps) are all concerned. We have that minister and we have bureaucratically divided up the system into three parts; we now have a Provincial Secretary for Justice, but every aspect of the administration of justice in its broad sense of the public interest and the interest of the individual is extremely concerned about the way in which sentencing is being carried out. You seem to have the sentencing procedure operating at sixes and sevens.

You have sentences being handed out by provincial court judges made a nullity in a very short time—and in other areas, too—but I am talking about within our own system. I know that the Minister of Correctional Services is very much concerned about the impact of the federal system on the parole that is granted.

I just don't know enough about it, and life is too short to spend one's time studying nothing but sentencing procedures, but I would like some indication that that aspect

of it is also being carefully looked at to establish what the roles are and the areas in which they do operate.

I suppose the most ridiculous one I had a hand in was that of a young man who was sentenced to jail and I was able to have him transferred to Hamilton and released on ticket-of-leave because they needed him for the football team at Carleton University. I think that probably was a perversion of the intention of the sentence imposed upon him.

I think every lawyer, if he knows the system, can work it around, you know—the sentence imposed by the court becomes either a nullity or there are other aspects of it.

Perhaps the minister would comment on his concern—I am sure he has it—about this aspect of it?

**Hon. Mr. Bales:** This is one of the problems. I think that there is a sharing of the responsibility in the whole of the justice field. It is a matter that is under discussion and consideration there. Recently I had a letter from the federal authorities, the Solicitor General, suggesting that we would be agreeable to considering a person we would nominate for the federal parole board.

We are going to do that; we see advantage to it. I have written to him to indicate that, and we will put on that board a provincial judge. He will serve there for a period of time, so we will have from them a better understanding of what they are doing and the provincial judge can give information from our standpoint. We have never had that liaison up to the present time. I have written to them and I am just waiting for the final concurrence.

**Mr. Renwick:** My last comment, Madam Chairman—the Deputy Attorney General referred earlier to the study which is being made on exercise of discretion by the Crown and my colleague raised the question—or one of the members—raised the question of plea bargaining. I take it that the letter to the Globe and Mail by Sydney Robbins, on which there was a response—I don't know whether you say that or not—

**Hon. Mr. Bales:** Yes.

**Mr. Renwick:** —is a pretty fair statement of what the position is as to the legitimacy and the need for plea bargaining. Again I would emphasize that that aspect of it be not lost sight of.

**Hon. Mr. Bales:** We dealt with this with the Crown attorneys a year ago at their meet-

ing and it will be up for discussion again this annual meeting.

**Mr. Renwick:** The other aspect of it, and I haven't had enough experience in the criminal field or in the police field to know, is: Is it always inevitably necessary to double-barrel the charges against a person in order to set up the play for the plea bargaining. You always end up, it seems to me, with two charges, and that's the invitation to join the game. Yet I appreciate as well the other side of it, that plea bargaining, from the point of view of one's client, is a very essential part of minimizing either the monetary penalty or the custodial penalty that the person will pay for whatever infraction he's been involved in.

**Mr. Callaghan:** The double-barrelling of charges, as you call it, is something we would like to be able to avoid, but again when the charge is laid, as you well understand, all the circumstances may not be ascertained, and in order to cover the field, so to speak, it is more often than not essential to lay one or two charges. Where it is clear that only a particular offence has been committed, then only that offence should be charged.

We would like very much to get away from the sort of overall feeling that we are laying two or three charges so we can plea bargain. We would hope that over the years we could develop it so we will lay the appropriate charge in the essential circumstances. But you don't always have all the evidence available at the time you lay the charge. I think that's how plea bargaining generates.

It is unfortunate it has that name; it is really plea discussion more than bargaining, because I don't think the Crown can bargain justice. I hope the essential result of discussions between Crown and defence is that the appropriate charge, for justice, is then reached and disposed of.

**Mr. Renwick:** It may well be that a number of the objections to the double-barrelling of charges may be a further widening or exploration of the included-offence doctrine.

**Mr. Callaghan:** You see, if a charge is laid and the evidence indicates that another charge, an included offence, is the appropriate charge, then you really don't have to lay all the charges. This is something that generates out of each individual case. It also depends to a large extent on the ability of the individual who lays the charge. By and large charges are initially laid by police officers, not



by Crown attorneys; it is at a later date that you get into that situation.

**Madam Chairman:** Have you completed, Mr. Renwick?

**Mr. Renwick:** The Deputy Attorney General brought one other item into my mind.

I think it's important to look at the citizen who goes to lay a complaint before a justice of the peace. I think in the course of instruction which is being worked out for justices of the peace, I don't mean that they should open the sluice gates to accepting every charge, but there is a certain amount of barracking that goes on. If someone from, if I may use the term, south of Danforth, goes to lay a complaint, it is a little difficult in the absence of being accompanied by someone, to persuade the justice of the peace that a charge should be laid.

I think, again, it's lack of training in many cases, or their training has been in one field so that they develop certain attitudes toward what they are going to deal with. I would hope that that is emphasized in the justice of the peace training courses, so that they can make some assessment of the legitimacy of the person who comes in because the police have said to them: "Oh, you should go and lay the charge yourself."

**Madam Chairman:** Any questions? Mrs. Campbell.

**Mrs. Campbell:** Yes, I have two.

One is on a matter of records in motor vehicle cases. Let's take a speeding charge. I had occasion to check through and I found that with the metropolitan police—I didn't go to the chief—but the information that I got in following through to a point, is that those records are kept, and they would appear to be kept for purposes of information for insurance. I wondered if that had been checked into.

They are kept for, well as far as I could make out, almost forever. It again seems to me that quite often a person involved in a minor matter has really fewer rights than the person who is involved in a very major matter.

I wondered if the Attorney General would give consideration to pursuing that matter?

**Hon. Mr. Bales:** I will do that.

**Mrs. Campbell:** The second thing that—

**Hon. Mr. Bales:** I'm not aware of it; it has never come to my attention.

**Mrs. Campbell:** I am a little tentative, because I didn't follow it through with the chief himself, but I did get to records.

**Hon. Mr. Bales:** We'll check.

**Mrs. Campbell:** The other thing that does concern me deeply is the matter of a person who is charged in a criminal court with, say shoplifting; and then that person is equally charged in the family court under contributing.

I think it is something that should be looked at, because it is a difficult thing. You really have a person in jeopardy twice, based on circumstances which are the same circumstances.

There is one view I think you may find with the judges in the family court, and it is that they are inclined to think the contributing aspects, by reason of the child's involvement, are more serious in some of these cases than the actual theft charge in the other court.

I wondered if any thought had been given to trying to straighten that kind of decision out. Welfare, of course, two separate divisions of police involved. But it does strike me that it isn't a very useful way to proceed.

**Hon. Mr. Bales:** It is really for the protection and assistance of the child, I suppose. Go ahead!

**Mr. Callaghan:** It is a problem that we will look into more definitely at some stage. The responsibility for policing, you see, doesn't rest with us.

**Mrs. Campbell:** I'm aware of that.

**Mr. Callaghan:** Then you run into the youth bureau, the Metropolitan Toronto Police Youth Bureau, which tries to act in the interest of the child; whereas other bureaus of the police force are doing it from the point of view of straight law enforcement. There is a conflict which creates an anomalous situation from a court point of view where you get the two concurrent proceedings, which you would like to avoid. That is one of the things we are looking into.

We'd like to try to work that out, because it does create an anomalous situation.

**Mrs. Campbell:** I did not know whether it should be raised in the Solicitor General's estimates or in this one. But I did think it should be raised some place.

**Hon. Mr. Bales:** We share the problem, it is of concern to us.

**Mrs. Campbell:** Thank you.



**Madam Chairman:** Mr. Lawlor.

**Mr. Lawlor:** A general question as far as this one is concerned: What about justices of the peace? Are they paid under this vote or are they paid under—

**Hon. Mr. Bales:** Courts administration.

**Mr. Lawlor:** Courts administration, okay.

I trust, as a point of perhaps comic relief, that the Justice department knows about the remarks made by Assistant Crown Attorney J. J. Eberhard, contained in the London Free Press of Jan. 17, 1973, where he quite bluntly, in court—I suppose this is his right-blamed “weak-kneed judges and their civil lib attitudes” for the bail and parole policies that are turning potential—

**Hon. Mr. Bales:** I think he had a bad morning.

**Mr. Lawlor:** Judge J. M. Seneshen, coming into court the next day, tripped on the top step as he went up to the dais; he turned and saw the same young Crown attorney was present. He said: “It is my weak knees.”

I thought I would use that in rebuke of the Prime Minister of Canada, too, Mr. Trudeau. On occasion he’s been known to take the hard line. That’s all I have to say on that.

**Madam Chairman:** Thank you, Mr. Lawlor. Shall item 2 carry?

**Mr. F. Drea** (Scarborough Centre): Could I say something?

**Madam Chairman:** Sorry!

**Mr. Drea:** Not being a solicitor, and with all due deference to the three who are here, and I respect them quite highly, I would suggest to you, Mr. Minister, that when we are dealing in concrete terms of many of the things they have brought up, such as say reform of the duty counsel procedure in the first instances, I can understand Mr. Renwick’s concern with it and I can understand Mr. Lawlor’s concern with the impact of justice upon people. But I would suggest to you that the public, and particularly lay people, are beginning to lose faith in the administration of justice and in the courts.

I am not going to suggest to you that it is the fault of the court system or it is the fault of any particular segment of the court system. I am prepared to concede that a great many of the fundamental misgivings that lay people in this country have about the court

system emanate from certain things that have gone on in the United States. Because of communications, and so forth, they take it that there is the same situation here.

I am a firm believer in that justice must be seen to be done as well as to be done. I do not think the public at the moment is terribly convinced that there is justice. There is a growing feeling among the public that the courts have gone too far over and that while protection of the individual may be very good, there is far too much protection of the person who is either charged or convicted of offences against society and very little regard by the courts and the justice system for the segment of society or the individual upon whom the offence has been committed.

I think if we are going to make reforms—and I suppose always in the field of justice there will be reforms, because justice has to conform to changing lifestyles and changing environments if it is to be successful—I would certainly hope that when the reforms are made that some of the latent, and indeed very prevalent, fears of the public are taken into account and that very clear explanations are given as to why this particular thing is needed. That it is not a weakening of the system, because one of the things that is happening about the hard line is that people feel deep down that there has to be a hard line, if they are to enjoy security within society.

Some of the justice experiments—not in this country—haven’t exactly reassured people that their interests are being really protected. I think we have to keep in mind that 90 out of 100 never see the inside of a courtroom and have no knowledge whatsoever of police procedures, other than the policeman who writes out a traffic ticket or a parking ticket. The only time they see a solicitor in their lifetime is on a property transaction or a will.

I think that some of the reforms we are talking about are very good in the abstract. When they are explained by government, however, I think there has to be an effort made to make them applicable to the person’s household, so that we don’t get into an emotional dissertation. All things with regard to justice are considered in an emotional way. They ebb and flow depending on the whim of the populace.

**Mr. Renwick:** Madam Chairman, I am provoked to reply.

**Madam Chairman:** I don't know that we are having a debate here, Mr. Renwick.

**Mr. Renwick:** No, we are not having a debate but I want it clearly understood that there are no fashions in justice. The rights of the individual and the rights of the society are a continuing difficult problem of adjustment. The law-and-order kick which was so depressing to all of us who were concerned with the administration of justice and which was fashionable in the United States and is now, thank God! about to be corrected in its imbalance by the action of members of the judiciary, by members of the free press and by decisions with respect to the rights of individuals by the Supreme Court of the United States, including the most recent decision by Chief Justice Berger, would indicate to me that the vitality and the validity of a society to exist has nothing to do with some kind of do-gooding attitude or emotional concern about justice. It is a difficult problem of resolution which requires the most careful, the most scrupulous and the greatest degree of integrity.

I will not allow the proposition to be abroad that fashions of public opinion are to undermine or affect or influence from time to time the basic ingredients of a civilized society which are, in my humble judgement, unchanging.

**Mr. Drea:** I would appreciate it if you would not put words in my mouth, because that is not what I said. What I am concerned about is exactly the same thing. I think a very clear explanation to lay people on all these matters is a matter of urgent necessity to prevent exactly what you were concerned about.

**Hon. Mr. Bales:** Madam Chairman, like so many things, I am sure there is right on both sides. I think we always have to bear in mind that people may say, as they frequently do to all of us, that justice may not be done or you're being too lenient on somebody or the judges are. But I think the public has a very clear sense of justice. If they see that you are departing from it and if the rights of an individual are not being protected, they are very quick to realize that it isn't only that person's rights, it's their rights.

I have a great faith in public opinion, that it recognizes these things very quickly. They may not know all the reasons behind them but they recognize them, and that that can so easily be them if the state or the judiciary ever strays very far from protecting a person's liberty.

**Mr. Lawlor:** Madam Chairman.

**Madam Chairman:** Mr. Lawlor, there is no point in engaging in this kind of a debate.

**Mr. Lawlor:** Yes, there is. If a member of this committee opens up a whole area of justice, it is a perfectly legitimate matter.

**Madam Chairman:** You had your privilege to make your statement and ask questions, Mr. Renwick the same, and Mrs. Campbell the same. Mr. Drea has made his statement, and it is not for you to take exception to it.

**Mr. Lawlor:** I tell you, Madam Chairman, you misunderstand your role and function. It certainly is to be taken exception to.

**Mr. Drea:** Did you listen to what I said? I don't see how you could take exception.

**Mr. Lawlor:** Statements which were made should be rectified. The tone and temper of the member for Scarborough Centre's statements are such as to elicit some brief reply.

**Madam Chairman:** You are really touching a point of philosophy and we are actually discussing criminal prosecutions. You are taking it quite far.

**Mr. Lawlor:** Madam Chairman, within your competence you permitted Mr. Drea to make statements along these lines to which the members of the opposition have the right to reply. I put it to you what your function and role are. If you wish to set on him and suppress him at some earlier state, mostly before he starts, then that is legitimate, but you can't cut off debate.

**Hon. Mr. Bales:** Mr. Lawlor, you wouldn't want anybody suppressed before they started, would you?

**Mr. Lawlor:** No, I certainly wouldn't.

**Madam Chairman:** You have had the greatest latitude, Mr. Lawlor.

**Mr. Lawlor:** No, I haven't, I feel severely constricted in this. You are going to get these estimates over with much quicker this year than ever before.

**Madam Chairman:** That is not the point. We are going into these estimates in great detail and with great latitude.

**Mr. Lawlor:** Well, let me say a word or two about this. As I say, you may have a thin edge to the wedge.



You know, there is a debate going on in the legal fraternity at the present time in this province, generated by Mr. Justice Haines, as to the right of the accused to remain silent. In British jurisprudence it is felt that that is an irrational and illogical rule, that the man who knows most about it can hide himself behind a disguise and refuse to speak. That kind of thing has come down because of quirks in the jurisprudence during the 19th century, when the accused or any of his witnesses were unable or weren't competent to testify on their own behalf. It has acted as a preservative.

Inside the profession in Ontario this goes on. That may be subject to question, but if you want my position I don't think it is. However, I am willing to have the broad-mindedness to listen to the arguments that there is some validity in it.

It seems to me, once in a while, in a committee of this kind these issues of massive importance and philosophical import ought to be discussed. We are not ground down like penny-pinching chartered accountants to the budget estimates. These are great matters of policy.

I would very much like to know what the Attorney General's thinking inside his department on this particular head would be, as to whether he favours the accused having the right to remain silent or not. He may say, as far as he is concerned, he has very little power over it, except that he does speak on occasion to the minister in charge up in Ottawa and carries from Ontario enormous weight as to what is going to happen in this particular regard. He certainly has, no doubt, a personal opinion on the matter one way or the other.

The other way round, though, if I may say so, on taking a hard line, it seems to me, by and large—and I sympathize with people on this particular aspect, I as I usually do with most human conditions—that people are so perplexed and so put out by the complexities and frustrations of contemporary society that they yearn for a simpler day. They are possessed with fear and the neurosis that is around these days among our constituents in terms of drawing back or trying to get into a shell. To get security and safety is an overpowering phobia. I think we who enjoy public office ought to resist that as part of our job.

The point in the system that counts is where it does an injustice to an innocent person. That must be avoided—not at all costs but not on some bloody pragmatic scale

either that says. "Well, you can sacrifice the odd poor devil." You can't do that within what is basically a Christian concept, that justice is ultimate and comes into the single person in a single position. All right, you agree with that, Frankie?

**Mr. Drea:** That is precisely what I said. You didn't listen to me.

**Mr. Lawlor:** You said people feel they have to take a hard line.

**Mr. Drea:** I did not. I expressed to the Attorney General of this province some concerns that lay people have, and I made it into a proposition that when reforms are going to be made they be clearly explained to alleviate those fears.

**Mr. Lawlor:** Well, I would resist that—

**Mr. Drea:** And I would appreciate it if you, too, didn't put words in my mouth.

**Madam Chairman:** I am sure that the Attorney General fully registered his comments.

Item 2 agreed to.

Item 3—civil litigation and legal advisory services. Any questions? Any points? Shall item 3 carry?

**Mr. Lawlor:** No. We're just getting ready.

**Mr. Renwick:** We're just getting our breath.

**Madam Chairman:** Speak up. Do you wish to speak, Mr. Renwick?

**Mr. Renwick:** I'll speak on a couple of things. Was the Premier (Mr. Davis) speaking with his tongue in cheek when he referred to—

**Madam Chairman:** Mr. Renwick, I don't know that you can address a question to the Attorney General about the Premier's intent.

**Mr. Renwick:** Well, I'll bring it around, Madam Chairman.

Did the minister put his tongue in his cheek when he heard about the Premier saying—

**Madam Chairman:** That's better.

**Mr. Renwick:** —that automobile accidents, suits, and divorce cases might, in future, be heard by a tribunal instead of a court as part of revolutionary changes—and when Premier Davis uses that word "revolutionary," they always put it in quotes—needed to remove bottlenecks now slowing down such cases? This is a statement by the



Premier to the Canadian Bar Association about a year or so ago.

**Hon. Mr. Bales:** I have never heard him make that statement. A year or so ago?

**Mr. Renwick:** Well, this is—a report which is contained in the *Globe and Mail* newspaper of Feb. 5, 1972. But, is the ministry directing its attention to dealing in some other way than by court hearings with automobile accident claims or with undefended divorces?

**Hon. Mr. Bales:** No, really, not at the present time.

**Mr. Renwick:** The other item which has concerned me is the one and only issue on which my colleague, the member for Lakeshore, and I have publicly disagreed in the chamber.

It is this question of a press council. I was opposed to it, my colleague, the member for Lakeshore, was in favour of it by government statutory enactment, and now I am caught because the *Toronto Star* has formed its own press council on a voluntary basis.

Questions of freedom of the press, I think, are an integral part of our system of government. I think the Supreme Court of Canada has issued statements about the clash of opinion about a press council being formed to deal in matters which had such public overtones, even though the council has invited a large number of people who aren't journalists to take part in it. Somehow that, in my judgement, creates a serious problem.

Perhaps after the bells—that is if the government survives—we could come back and deal with this question.

**Hon. Mr. Bales:** Why don't we just keep on? The tradition is those bells ring for 20 minutes.

**Mr. Renwick:** As I say, it has been a private organization to which a certain number of newspapers have adhered. I understand that television and radio do not participate in it. It certainly isn't all-embracing.

**Mr. Lawlor:** I don't think the *Globe and Mail* does.

**Mr. Renwick:** The *Globe and Mail* doesn't, either. Yet there are a large number of people from the public who have been invited to take part for a one-year term as members of this press council, as well as press members. I am simply referring to the

articles about it which appeared in September of last year.

Somehow or other, that raises serious questions. It seems to me, without being too Marxian in my approach to it, that either there shouldn't be a press council or it should be institutionalized in such a way as to provide assurance that it will not prohibit the free expression of opinion.

I think it is fair to say, for example, that the underground press which is now becoming above ground, is the way in which freedom of expression and freedom of exchange of viewpoints often develops in our society. It has in England, it has in the United States, it has here. And yet by its very nature, this, it seems to me, could be viewed as a restrictive operation, even though the intentions are not to make it restrictive. I know that the express purposes are not.

Perhaps my colleague would comment about it. But I am just concerned about it and I have no idea what the answer to the problem is.

**Hon. Mr. Bales:** You are concerned about what it might theoretically develop into?

**Mr. Renwick:** Yes.

**Hon. Mr. Bales:** That it may in any way develop into a system of censorship or control?

**Mr. Renwick:** It certainly was Mr. Justice McRuer's view, if my memory serves me rightly, that a press council could be fashioned in such a way as to protect the various interests and at the same time maintain the freedom of the press. Is that a correct statement?

**Madam Chairman:** Mr. Renwick, the bells are ringing for a vote in the House, so I think this would be a good point at which to recess for a few minutes, then we will return after the vote.

The committee recessed at 4:55 o'clock, p.m., for a vote in the House and reconvened at 5.30.

**Madam Chairman:** Ladies and gentlemen, we have a quorum, so I believe we can start. Mr. Renwick, you made a point. Is that the sum of your point?

**Mr. Renwick:** That was one of my points.

**Mr. Lawlor:** I have a question of Margaret; the other Margaret:

Whatever happened to the great Liberal Party in the course of the estimates of the Attorney General this year?

Mrs. Campbell: I guess maybe they figure they have a good representative.

Hon. Mr. Bales: I'm sure they have.

Mrs. Campbell: They've been busy. Vern was speaking this afternoon on another bill.

Madam Chairman: Will you proceed, please, Mr. Renwick? The subject is civil litigation and legal advisory services.

Mr. Renwick: Perhaps the minister would comment about that press council question. I don't know what Mr. Justice McRuer said, but he made it somewhere.

Hon. Mr. Bales: I'll make a comment that I know of the press council. To me it's an association, a voluntary association of various people in the news media. They make their own rules but when it is not compulsory that people belong to the press council then I think that there is no concern that there might, in any way, be limitation or control on news dispensation. If there were, I would be very concerned by it.

Mr. Renwick: I have a couple of other matters. Would the Attorney General look at the question of tenants being penalized who raise questions about houses or accommodation meeting housing standards bylaws, the result being that the landlord is required to make repairs and then the tenant has his rent increased.

Hon. Mr. Bales: You mean as the result of the repairs being made? Not directly but coincidentally.

Mr. Renwick: Yes. As the accommodation is below the housing standards, the tenant has the temerity to ask for an inspection under the housing standards bylaw, say, in the city of Toronto. The inspection is carried out. The list is furnished to the landlord and the landlord says to the tenant: "Well, we're going to increase your rent now to cover these repairs." It would seem to me that it would be possible to claim—in the field of civil litigation—and it would be possible to so phrase the amendments to the Landlord and Tenant Act that a landlord would be precluded from increasing rent by reason of his infraction of, or failure to meet, the requirements of the housing standards bylaw.

Hon. Mr. Bales: Have you specific examples of this that might perhaps assist?

Mr. Renwick: Yes, I certainly have and I'll send you the brief which I've received on the matter related to my own riding. There is also a reference to the same type of problem which was in Etobicoke, which I'll send to you at the same time.

On the question of the civil courts being crowded, could the minister give some indication of the backlog of cases in the small claims courts in Metropolitan Toronto, and the efforts which are being made to improve the situation in those courts?

Hon. Mr. Bales: I thought you were going to ask for the statistics in another field. Mr. Russell advises us it's about three months' delay now in the hearings at the small claims courts in Metropolitan Toronto.

Mr. Renwick: Throughout Metropolitan Toronto.

Hon. Mr. Bales: You know that within the last year we have, now, three full-time persons dealing with the small claims cases as well as assistance from the county bench.

Mr. V. M. Singer (Downsview): Who are the personnel?

Hon. Mr. Bales: Well, it's Judge Edra Ferguson, Judge Davies and Judge Chown. Their field is exclusively in the small claims area.

Mr. Singer: Judge Sheppard sits in that small claims court.

Hon. Mr. Bales: Well, I said earlier that additional assistance comes from members of the county bench.

Madam Chairman: Go ahead, Mr. Renwick.

Hon. Mr. Bales: Incidentally, I might just expand on that slightly, and it relieves the county bench in dealing with those matters, and leaves them free to deal with other matters.

Mr. Singer: What sort of category do you put those people in?

Madam Chairman: Excuse me, Mr. Singer. Perhaps you'd like to ask the question a little later on; Mr. Renwick has the floor just at the moment.

Hon. Mr. Bales: Provincial judge.

Mr. Singer: I'm sure Mr. Renwick would like to have this information too.

Mr. Renwick: Mr. Minister, has there been any analysis of that kind of backlog? What



does it mean when we say that there is a three-month backlog in the small claims court? Does it mean that a claim issued today and processed strictly in accordance with the provisions of the Small Claims Court Act, would not be set down for trial in the major small claims courts in Metropolitan Toronto for three months?

**Hon. Mr. Bales:** I prefer to put it this way, Mr. Renwick. If lawyers and parties carried out their responsibilities expeditiously, it would be heard in the space of a three-month period.

**Mr. Renwick:** I think that's what I was saying, that if—

**Hon. Mr. Bales:** They're all different cases.

**Mr. Renwick:** —the claim was made and the time limits were strictly observed, notice setting it down for trial would be in the neighbourhood of three months from the time the claim was filed.

The member for Scarborough Centre, at the conference on consumer law, at Osgoode Hall some two or three months ago, made the point about the inadequacy of procedures for dealing with the shoddy item of consumer goods which is purchased in a store and the problems which surround getting effective action, apart from whatever he can get through the administrative system — say, through the consumer protection branch of the other ministry. There was a considerable expression of opinion by the lawyers that, somehow or other, there ought to be a speedy method by which an item of shoddy merchandise, and the question of either a replacement or a refund, could be speedily dealt with as a court matter.

The argument was that either the consumer who buys the shoddy item attempts to get it replaced—but is not prepared to go to all that trouble because it is an immense amount of trouble to get a refund or a replacement—or makes his point that it is shoddy goods, because our system just doesn't lend itself to the efficient and quick solution of that kind of problem. It seems to me that somewhere it should be possible to devise a system that could meet that specific kind of problem.

**Hon. Mr. Bales:** If it doesn't come under the report on warranties, which would require, really, replacement.

**Mr. Renwick:** Yes, that's the kind of problem. The person who buys the broom in the store and all the bristles fall out, tries to get

a replacement and he finds that the manager is recalcitrant—

**Hon. Mr. Bales:** Or you're faced with all sorts of repairs on a mechanical type of appliance.

**Mr. Renwick:** This kind of thing, yes. Or the proverbial toy that you buy at Christmas on which the screws don't fit the holes or aren't going to permit you to put it together before Christmas-tree time.

**Hon. Mr. Bales:** There are two different types of problem—one is the sale of goods and one is warranties.

**Mr. Renwick:** It just seemed to me that the member for Scarborough Centre's point was a very valid one, that it should be possible somehow or other to deal in a speedy way with that kind of everyday problem.

I don't know how you do it but I raise it as a very valid problem.

**Hon. Mr. Bales:** I think the problem in reference to the report on warranties is that it is a more major type of article we are really concerned about.

**Mr. Renwick:** The major type of article is a different problem.

**Hon. Mr. Bales:** Yes.

**Mr. Renwick:** We were just talking about the ordinary purchase of the item for a relatively small sum of money, which just doesn't perform the service which it is supposed to perform.

I leave that with you. I don't know; it may well be that we will have to be a little bit arbitrary and set up somebody who will say, "This case falls on the simple side of the line. We're going to hear it in some kind of a very speedy way." Let each party make his very brief statement and let somebody arbitrarily say, "Okay, you replace the broom. That's it; or you give them back the money," without getting involved in all the immense legal questions that are involved in warranties of more expensive items.

The other item, which I believe would come under this vote, either under civil litigation or legal advisory services, is what are the—

**Mr. Singer:** Are you through on small claims?

**Mr. Renwick:** Yes, I think so.

**Mr. Singer:** Can I get in on small claims?



Mrs. Campbell: Well, is it small claims vote, Madam Chairman?

Mr. Singer: On small claims, Madam Chairman, there are two questions I want to ask. One, how much are we paying the provincial judges who sit on these small claims courts?

Hon. Mr. Bales: The arrangement there has just been reviewed this year. The normal range was from \$23,000 to \$26,000. The provincial judges have been changed now to range from \$24,600 or something—I've forgotten the exact figure—to \$27,800. The small claims judges, I've found, were at a substantially lower figure last year, and I didn't think that proper. I have changed them to the level of a provincial judge.

Mr. Singer: Are all the small claims judges required to be qualified in law?

Hon. Mr. Bales: Their appointments do not go to the provincial judicial council, but they are all lawyers.

Mr. Singer: They are all lawyers?

Are they appointed during good behaviour or at pleasure?

Hon. Mr. Bales: The same as provincial judges.

Mr. Singer: Well, if they don't go before the judicial committee, how can they be removed in the event that some of them might misbehave?

Hon. Mr. Bales: They could be removed in the same way.

Mr. Singer: On recommendation of judicial council or by—

Hon. Mr. Bales: I can submit the name, for instance, to the judicial council, at any time, under their basic rules.

Mr. Singer: Insofar as the personnel—

Hon. Mr. Bales: If I may say, I think we are on the wrong item.

Mrs. Campbell: The wrong vote.

Hon. Mr. Bales: We are not on the right item, Mr. Singer.

Mr. Singer: I thought we were on small claims?

Hon. Mr. Bales: No.

Mrs. Campbell: We started in to be.

Mr. Lawlor: No, not really.

Madam Chairman: Why don't we just come back—

Hon. Mr. Bales: I am happy to be on it.

Madam Chairman: —to Mr. Renwick and let him finish. I've got you down and you can explore all of it.

Mr. A. J. Roy (Ottawa East): But there is a separate vote for small claims.

Mrs. Campbell: Yes.

Mr. Renwick: Well. I'll withdraw my remarks.

Hon. Mr. Bales: Mr. Singer, we were on the third item of vote 1204, which is civil litigation and legal advisory services. Mr. Renwick raised a matter which, to a degree, related to small claims but we are not really on that vote yet.

Mr. Roy: I think we can get in on that vote, though.

Mr. Singer: Could I ask just one more short question on small claims?

Hon. Mr. Bales: Surely.

Madam Chairman: Why don't we wait and talk about small claims when we come to the item?

Mr. Singer: The staff in those courts—are they paid annual salaries or are they still paid on a percentage basis? I mean the bailiffs, the clerks.

Hon. Mr. Bales: They are paid on a percentage basis but as you may be aware, we have—you're having a tough time!

Mr. Singer: We're having trouble. Mr. Roy is moving his head back there.

Hon. Mr. Bales: Yes. We have closed a number of the very small small claims courts in various places in the province, and we are moving to the position where we will put the staff on regular salary basis and do away with the other arrangement.

Mr. Singer: Mr. McRuer took violent exception to that.

Hon. Mr. Bales: He took exception.

Mr. Singer: I have two people being paid on commission basis.

Hon. Mr. Bales: He wanted the—

Mr. Singer: They wanted to be paid salaries.

**Hon. Mr. Bales:** In essence that is what we're moving to, his recommendation.

**Mr. Singer:** I have complained about it for several years. I think it is quite foolish in this day and age to have people who are part of our judicial administrative process to be paid in relation to the volume of work that goes through the particular judicial function that they are performing. They should be paid a reasonable salary within whatever civil service category they come.

I think that today the thought that a bailiff should get a percentage of what he collects, of the business he does, or a clerk should get a percentage of what happens to come in is quite foolish. It's quite ancient; it's quite outdated. I wonder how much longer you are going to have to continue to move until this is eliminated.

**Hon. Mr. Bales:** I think you and I are in agreement on this and perhaps a number of other matters. I started last fall closing these small claims courts. I haven't got the exact number—Mr. Russell could tell us now—but we closed rather a substantial number. We will be moving, I hope, within this year, to putting them on a salary basis.

**Mr. Singer:** So that within 12 months they all—

**Madam Chairman:** Let's move it on now.

**Hon. Mr. Bales:** We had to do it on a two-stage basis, though, of closing a number of the courts. They won't all be. There are some small ones which will not be on it, but we will move to a basis of centralizing them in the larger centres. Those people will then be put on salary; others may be phased out over a longer period of time.

**Mr. Singer:** Well, what sort of comes to mind—

**Madam Chairman:** Mr. Singer, you really are protracting this discussion on another item. We were on a particular subject.

**Mr. Singer:** Madam Chairman, they are really small claims and if you are going to try to categorize everything, you lose the train of thought.

**Madam Chairman:** I know. We—

**Mr. Singer:** Well, this is foolish. Yes, it is.

**Madam Chairman:** No, it is not. We were on a particular point or subject. Mr. Renwick was following a line of thought and you

have interrupted his line of thought. You will have your day—

**Mr. Singer:** No, he was talking about small claims and, with his permission, we got into that. Surely, it makes some sense that we can pursue one of these points to its end.

The final point that I wanted to make on this matter, which is very brief, is it makes little sense to me that a bailiff, for instance, of the small claims court should be paid in relation to his success in collecting. If he is a reasonable bailiff, he should go out and do his work for whatever number of hours he works in a day. Then he would not have the temptation placed before him, which I am sure even bailiffs paid on commission resist, to go out and collect the obvious ones and ignore the more difficult. It sort of invites temptation and I think it is very bad for the system of administration.

**Mr. Lawlor:** For essentially a law and order man you run completely amok.

**Madam Chairman:** Now can we come back to Mr. Renwick, please, and to the item under discussion?

**Mr. Roy:** Can I ask on a point of clarification?

**Madam Chairman:** Yes.

**Mr. Roy:** We go tonight until what—6 o'clock?

**Madam Chairman:** Yes.

**Mr. Roy:** And we come back when?

**Madam Chairman:** Eight o'clock.

**Mr. Roy:** Eight o'clock—fine.

**Madam Chairman:** Fine, and we sit concurrently with the House.

**Mr. Roy:** If we sit until 5 o'clock in the morning in the other House will the committee be sitting?

**Madam Chairman:** Yes, and we have done so.

**Mr. Roy:** Because it looks as though that is what we are going to do.

**Madam Chairman:** Prepare yourself. Go ahead, Mr. Renwick.

**Mr. Renwick:** I assume this is the right place to deal with the Crown representing the people of the Province of Ontario in rate matters.

An hon. member: In which?

Mr. Renwick: Rate matters.

Madam Chairman: That comes under revenue; two over, I think it is.

Mr. Renwick: Rate.

Mr. Lawlor: Assessment?

Madam Chairman: Yes, there is a section. You are talking about appeals to assessment and things of that sort, yes?

Mr. Renwick: No, I am talking about the government of Ontario representing the public interest with the Bell Telephone—

Madam Chairman: Oh, I beg your pardon.

Mr. Renwick: —and I want to ask two questions. One is, how is the decision made? I am not asking disclosure of cabinet secrets, but for example, in the current application, as I understand it, of Consumers' Gas and the type of application that comes before the Ontario Energy Board, the question has been raised whether or not the government of Ontario would be representing the public of Ontario, and does the initiative for the consideration of that kind of policy question come forward from this ministry, to be decided by the cabinet, or does this ministry await the request from other areas of government before it makes such a decision?

Our view, of course, is that the government of Ontario should be actively present at the Ontario Energy Board hearings just as it has, in the latter years, been actively present in the Bell Telephone rating increases in Ottawa.

Hon. Mr. Bales: Mr. Robin Scott, as you know, of the ministry, specializes in that particular area, and does appear and act as counsel for the Ontario Energy Board. He appears there, and deals with the matter and presents the case.

For example, I spent a long time going over Bell Telephone with him. The Bell Telephone situation is a little different, in that it is the responsibility of the Ministry of Transportation and Communications and the legal people in that ministry, usually. This year it has been a little different; this year their counsel, Mr. David Duncan, appeared before the Canadian Transport Commission, in reference to the Bell Telephone hearing. Mr. Robin Scott does appear before the Energy Board, and deals with it in that way, presenting all of the facts and the viewpoint of the whole field.

Mr. Renwick: What you say is a little different. I assume you mean because of this programme to take all of the lawyers on to the staff of your ministry and second them for other purposes.

Hon. Mr. Bales: Yes.

Mr. Renwick: Does the ministry have plans for other forms of other representations on behalf of the people of Ontario in any area?

Hon. Mr. Bales: Well, I think Mr. Scott is engaged almost entirely in that field, in whatever hearings need to take place. He has become very expert at it, but when I said it was a little different, I meant that when the province appears before a federal commission, it appears in a little different role than Mr. Scott does before the Ontario Energy Board, but it really carries out the same type of function, placing all of the information it has before that board or commission.

Mr. Renwick: Would the ministry consider that there is any role for it to play, for example, in representing the Indians under Treaty No. 9 before the federal government, with respect to any consideration of their treaty rights and the protection which the Indian community, under Treaty No. 9, will have?

Hon. Mr. Bales: Mr. Renwick, to be honest, I would have to think about that. I don't have a ready answer.

Mr. Renwick: It seems to me that it is an extremely expensive proposition for the Indian community itself to have to carry the burden of that kind of a presentation. I assume there are also Treaty No. 3 Indians as well.

Hon. Mr. Bales: It is primarily the federal field, but as the deputy mentions, legal aid, I think, could be made available, but the province, no—

Mr. Renwick: It has become almost impossible to get legal aid for a group.

Hon. Mr. Bales: I am not in a position to give an answer on that until I carefully consider—

Mr. Renwick: Well, I didn't think probably you were, but I would raise specifically with the ministry that it give consideration at least to an internal review of the role of the Province of Ontario with respect to Treaty No. 9. The Province of Ontario was involved in that; and the Province of Ontario still pays the



federal government an annual annuity to meet treaty obligations arising out of the cession to the Province of Ontario, or the deeding to the Province of Ontario, of all of the hinterland of the province; and then with a view to determining whether or not there may well be a legitimate position for the Province of Ontario to represent that community, for reasons other than the reasons which might merit an extension of the legal aid plan.

**Madam Chairman:** Are you through, Mr. Renwick?

**Mr. Renwick:** Would the minister indicate the kind of representation which is involved under this vote? Could he give us not necessarily a complete list, but the kind of matters which are covered by the representation in this civil litigation?

**Hon. Mr. Bales:** I beg your pardon?

**Mr. Renwick:** And legal advisory services.

**Hon. Mr. Bales:** It covers the whole range. Mr. Callaghan will deal with that.

**Mr. Callaghan:** When the Crown, in right of the Province—or when Her Majesty the Queen, in right of the Province of Ontario—is sued under the Proceedings Against The Crown Act, we usually provide counsel from the ministry on those matters. On constitutional issues, we provide counsel from the ministry. The counsel under this vote would appear in all the proceedings under the Judicial Review Procedure Act, where there is a question of the interpretation of those new statutes, counsel is provided. In many of the suits, such as where the Ontario Provincial Police are sued for alleged negligence in the performance of their duty, we provide counsel from the ministry. As far as legal aid is, concerned, that it the kind of thing that we do in this vote.

As far as advisory services are concerned, we provide opinions to other ministries of government on issues that they may raise; for example, often the minister is asked for an opinion of interpretation of a section to resolve inter-ministerial disputes, based on statutory legislation. This is the group that provides legal advice to government.

This group is now in a state of flux because of the integration of the legal services and the fact that 88 new lawyers are part of the ministry, and a co-ordinating effort, which Mr. Hilton is undertaking. We are in the middle of trying to co-ordinate the various legal services in each ministry.

This is the area where you deal with that. I mean, that is the kind of thing we do; sort of the civil end as opposed to the criminal end that we dealt with before.

**Madam Chairman:** Have you anything further?

**Mr. Renwick:** For the moment, I don't have anything more.

**Madam Chairman:** Well, then, supposing we adjourn right now until 8 o'clock?

**Mr. Roy:** I just would like to know where where we are on the list because how do we stand for speakers?

**Madam Chairman:** We are at vote 1204, item. 3.

**Mr. Roy:** No, no. I wanted to ask a question. Where do I come in?

**Madam Chairman:** I have Mr. Lawlor, Mr. Singer and yourself.

**Hon. Mr. Bales:** Okay, can we let Mr. Roy ask a question?

**Mr. Renwick:** He should be on at 8:15 p.m.

**Madam Chairman:** Have you got a particular one, or do you want to go on?

**Mr. Roy:** No, I had a particular one, but I think it might be some time and I wouldn't want to hold up all these people.

**Madam Chairman:** All right.

**Mr. Singer:** On a point of order before we do adjourn. Presuming the House might go on past the hour of 10:30 p.m., is it the intention of the committee to run past the hour of 10:30 p.m. Do we have that right?

**Madam Chairman:** Apparently we sit concurrently with the House, Mr. Singer.

**Mr. Renwick:** Is that the rumour?

**Mr. Singer:** That is the rumour.

**Madam Chairman:** I haven't been informed.

**Mr. Singer:** Like all night.

**Mr. Roy:** Well, I would take violent objection to that.

**Madam Chairman:** Well, what's the difference if you are working here or working there?

**Mrs. Campbell:** Well, the difference is you want to speak on something here.

**Mr. Roy:** It is not fair.

**Hon. Mr. Bales:** We really don't know that the House is going to go on.

**Madam Chairman:** I think we are conjecturing about something about which we have no knowledge.

**Mr. Roy:** No, we just want to advise you that should it go beyond 10:30 p.m., I don't think we should—

**Mr. Lawlor:** Beyond, let's say, midnight.

**Mr. Singer:** Well, that can only be done on vote. Now, I don't know whether the rules of the House automatically allow the committee to meet.

**Hon. Mr. Bales:** But I haven't heard anything about going beyond 10:30 p.m.

**Madam Chairman:** Well, then, we will return at 8 o'clock and Mr. Lawlor will be the next speaker.

It being 6 o'clock, p.m., the committee took recess.

## CONTENTS

---

Thursday, May 3, 1973

Crown legal services programme, continued .....	S-127
Recess .....	S-150









# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Thursday, May 3, 1973**

**Evening Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 3, 1973

The committee resumed at 8:15 o'clock, p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1204:

**Madam Chairman:** Mrs. Campbell and gentlemen, the meeting will come to order. We are on vote 1204, item 3, civil litigation and legal advisory services.

The substitutions I have this evening are Mrs. Campbell for Mr. Worton, Mr. Lawlor for Mr. Deans, Mr. Morrow for Mr. Hamilton and Mr. Smith (Simcoe East) for Mr. Walker.

**Mrs. M. Campbell (St. George):** You reversed them this afternoon.

**Madam Chairman:** Pardon?

**Mrs. Campbell:** You reversed them this afternoon.

**Madam Chairman:** I'm sorry.

**Mrs. Campbell:** They've been running in that order until this afternoon.

**Madam Chairman:** All right. I'll use Mr. Lawlor for Mr. Stokes, Mr. Smith (Simcoe East) for Mr. Walker, Mr. Evans for Mr. Eaton. Are there any other substitutions? If not, can we commence?

**Mrs. Campbell:** And Mr. Roy for Mr. Braithwaite.

**Madam Chairman:** Pardon? Are you substituting for Mr. Braithwaite?

**Mr. A. J. Roy (Ottawa East):** Yes.

**Madam Chairman:** My next speaker is Mr. Lawlor.

**Mr. P. D. Lawlor (Lakeshore):** I am sorry to see—the pain is healable—that we have driven our friend from Scarborough Centre (Mr. Drea) to distraction. I think that's where he went.

**Madam Chairman:** I am sure he will be back. He is a member of the committee.

**Mr. Lawlor:** A couple of matters under this vote I think it would be fair—

**Mr. J. A. Renwick (Riverdale):** Madam Chairman should be strictly impartial.

**Mr. Lawlor:** You must stay above this fray.

**Madam Chairman:** No, I said he is a member of the committee.

**Hon. D. A. Bales (Attorney General):** She is just as impartial as you are. And I've known you for a long, long time.

**Mr. Lawlor:** I won't make any comment, it is likely to become inflammatory.

**Hon. Mr. Bales:** No, we get along very well.

**Mr. Lawlor:** I say we pretty well canvassed this in most of its ramifications at the initiation of the estimates. The considerations under this particular vote—I mean the business about the 88 lawyers coming in—and incidentally under that head, is it the intention in future years, as was done for the first time this year because of that situation, that an item will appear in the estimates as recoveries from other ministries for seconded common legal services in the sum of \$2.3 million?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** It will always appear that way?

**Hon. Mr. Bales:** That's right. There is a compensation charge back to the other people, or it will develop that way.

**Mr. Lawlor:** At least it keeps the picture clear.

**Hon. Mr. Bales:** To the other ministries, I should say.

**Mr. Lawlor:** I would kind of like to see, some day—isn't that funny, we mention these things and they pass in the night, or the twilight, and they never seem to come back again; they are birds of passage. But here's another one of my little wonderments. Some time before the next estimates roll around

I'd like to see a breakdown, if this is the way it's going to be done, of what the various amounts from the various areas—after you've completed your reorganization as to who should be allocated where—which departments are paying you what, for whom.

**Hon. Mr. Bales:** Or what we are paying the number of people in the various ministries, for example.

**Mr. Lawlor:** These are recoveries from other ministries.

**Hon. Mr. Bales:** What I was really thinking about was a year hence. I think it will be easier in a year hence to show—

**Mr. Lawlor:** Yes, I would think we should have it yet because it's so new.

**Hon. Mr. Bales:** Yes.

**Mr. F. W. Callaghan** (Deputy Attorney General): This year we are merely charging the salaries and fringe benefits back to the various ministries.

**Mr. Lawlor:** Straight salaries and fringe benefits?

**Mr. Callaghan:** Straight salaries and fringe benefits. We've undertaken to pay them and then charge them back. It may take some time, but what we would like to work out would be a charge-back which was more practical—in the sense that it was allocated on the basis of time spent and things of that sort—but that'll take time to work out.

**Mrs. Campbell:** What about rent? They'll have to pay rent?

**Hon. Mr. Bales:** That's right. But not us, that is Government Services.

**Mrs. Campbell:** No, but you are charged rent. Won't you be charging out a portion of that rent to the service of the other agency?

**Hon. Mr. Bales:** That all goes in their accommodation as it does with us.

**Mr. Lawlor:** Is it anticipated that there will be reclassifications, that the various types of work will be considered as being more legally demanding perhaps than others?

**Mr. Callaghan:** What we propose to do is to make an assessment of the need in each ministry for a legal service, and then we propose to try and provide that legal service. Where a ministry has a particular, peculiar specialty requirement from time to time, we hope to establish and develop, in the Crown

law offices, a back-up capacity to provide specialty expertise. Where we cannot provide that within the government, because there isn't sufficient demand for that particular specialty, we will go outside and retain counsel as required from time to time.

The ministry to which the service is seconded will provide the space and the supplies, the working papers—things of that sort. That is basically the way the plan is supposed to work.

**Mr. Lawlor:** This is ranging a little far and probably into the next vote, but as legislation proceeds through the ministry, what would be initiated with those solicitors?

**Mr. Callaghan:** Presumably each ministry will have the responsibility for bringing forward its own legislation and its own legislative programmes—

**Mr. Lawlor:** As they do now.

**Mr. Callaghan:** As they do now. We hope, though, over the years, with some continuity in legal advice going into the ministries, there will be a more uniform approach to legislative problems and to legislation itself. But that's something that will take time to develop.

**Hon. Mr. Bales:** Can I just add to that, Mr. Lawlor? I'm chairman of the legislation committee and people within this ministry assist me, or will assist me in that regard, by seeing the legislation at the same time that it goes to legislation committee so that we can bring greater uniformity to it.

**Mr. Lawlor:** A greater skill going into phraseology and the wording and the drafting and so on.

**Hon. Mr. Bales:** That is right, hopefully.

**Mr. Lawlor:** Oh good—hopefully.

I want to talk for a few moments about the judicial council. I suppose that we just have a long enough period now, after its institution, that we begin to look at it reflectively. It was recommended by the McRuer report—

**Hon. Mr. Bales:** Can I be frank?

**Mr. Lawlor:** I have some misgivings about it.

**Hon. Mr. Bales:** Mrs. Campbell and I are having a slight conversation back and forth.

**Mr. Lawlor:** You weren't going to report her to the judicial council?

**Hon. Mr. Bales:** Oh, never, not Mrs. Campbell.

**Mrs. Campbell:** No, I don't think so.

**Mr. Lawlor:** You know they operate, as we all know, "without a camera"—I'm playing with words—they take no pictures, it's a revelation, all done internally. Complaints emanating from the public about the general demeanor, deportment, acerbity, and what-not of judges are made to this body.

We deliberately constituted it of fellow judges—true, of superior status, by and large. No representative from the public at all is on it. It was felt wiser to keep it close to the chest and within the confraternity of the faithful. No one knows when a complaint goes in now—it gets lost in the toils of that vigorous octopus and he squirts away, he lets out a little ink here and there, but we never know what was the final result.

Ought this not to be a somewhat more public thing than it is at the present time? What judges have been slapped on the wrist? Which have been called to account? Unless they do something completely dastardly—place a bug on the Attorney General's lapel, or something—they are safe for life, apparently.

So my question really comes down to, is the judicial council working? Was it ever meant to work really, or was it only made to be a masquerade for offending judges? What on earth can we do about it if it's felt that this instrument is not adequate to its intent?

**Hon. Mr. Bales:** Madam Chairman, I think the judicial council can, and does, serve a good purpose and a useful purpose. The chief judges of the family court, the provincial criminal court, the county court and, I am sure the other chief justices too, can and do, if necessary, carry out a number of functions; but the judicial council is there and necessary, and I believe we should only submit to it matters of serious import.

We are dealing with the reputation of and the personnel within the judiciary; within the confines of this committee, I would hope complete confidentiality would reign, because neither I nor the members of the committee would do anything to undermine the judiciary itself.

I have had occasion, as has been quite obvious, to refer a matter to the judicial council, and I expect that I shall have the occasion to do so in future. I have said publicly, and I have no hesitation in saying

here, that I am not entirely satisfied as to the present arrangement or setup as to the judicial council. I have had some discussion with some of the members, not all, of the judicial council, and it would be my hope to make some changes. I would say to you, though, that before I make changes I want to be very satisfied in my own mind as to the kind of changes I am making, that they would be for the better. I have chosen my words a little carefully—

**Mr. Lawlor:** I can see that.

**Hon. Mr. Bales:** —and I'm sure you understand and appreciate that—because it caused me some anxious moments at times in the first year of my ministry.

**Mr. Lawlor:** Well, while you ruminate over the next little while, could we anticipate the unveiling—

**Hon. Mr. Bales:** Not immediately.

**Mr. Lawlor:** —before this session is over?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** Okay. Could you give me any idea of the number of complaints that have been referred to the judicial council in the last fiscal year?

**Hon. Mr. Bales:** One.

**Mr. Lawlor:** One?

**Hon. Mr. Bales:** There have been complaints that have perhaps gone to the federal judicial council; and I have been urged to submit others, but they have not formally been submitted. There has not been a reason to do so.

**Mr. Lawlor:** You receive a fair number of complaints about the activities of judges, one way or another, don't you?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** And there are ones which you handle yourself, isn't that correct?

**Hon. Mr. Bales:** That's right, and I refer some to the office of the chief judge.

**Mr. Lawlor:** Yes, I see. You don't interview judges yourself?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** You stay scrupulously away from that?

**Hon. Mr. Bales:** That's right.



**Mr. Lawlor:** All right. I won't press that. Let's talk for a moment—

**Hon. Mr. Bales:** Mr. Lawlor, can I just correct one thing? There was one instance when I did interview a judge and that was to convey the decision of the judicial council.

**Mr. Lawlor:** I see. I think that is proper. Of course, you're in very close liaison with the chief judge, aren't you?

**Hon. Mr. Bales:** Very close.

**Mr. Lawlor:** And you're back and forth—

**Hon. Mr. Bales:** There are many administrative matters.

**Mr. Lawlor:** But you wouldn't take it upon yourself to drop a line to a judge?

**Hon. Mr. Bales:** At no time. I deal through the chief judge.

**Mr. Lawlor:** I see. You use the conduit of the chief judge. If a judge has got a peculiar hangup—say, in the area of liquor, where, having been a previous alcoholic himself, is never able to forgive the human race with respect to this propensity, therefore I suppose you, through the chief judge, could say: "Now, come on. Exercise a little balance, a little equanimity in the issue."

**Hon. Mr. Bales:** No, the disposition of the cases is theirs, and I endeavour to not deal with it at all. What I do, though, is that before anyone is appointed a judge I see that person to talk privately with him as to his thoughts, his philosophy, his intentions, his desire to serve and so forth.

**Mr. Roy:** Is that right? Do you do that with all your appointments in provincial courts?

**Hon. Mr. Bales:** Every appointment.

**Mr. Roy:** Is that right?

**Mr. Lawlor:** That's a good policy.

**Mr. Roy:** That's something new, isn't it? That wasn't done before.

**Hon. Mr. Bales:** It may not have been. I couldn't say, but it's my policy; that's the way I do it.

**Mr. Lawlor:** If you don't like the beggar, it doesn't necessarily mean he won't get the job, though?

**Hon. Mr. Bales:** That's right.

**Mr. Lawlor:** You discount the subjective elements that may enter into it, don't you?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** It's like being a judge of the judges.

**Hon. Mr. Bales:** Well, I want to know the people who are on the bench.

**Mr. Lawlor:** You want to know what kind of man you've got.

**Hon. Mr. Bales:** I want to know what motivates them.

**Mr. Lawlor:** I won't press that. That's fine.

Now to the thorny question. You are a relatively new Attorney General, and I can't remember whether we tested your opinion in the area of an ombudsman or not. You know that the Liberal Party, through the member for Downsview (Mr. Singer), and ourselves in the past, have been fairly vocal about this particular thing. Mr. Justice McRuer felt that there was a niche, if I may put it that way, for such a personality, particularly in the municipal field; and after you had the reform of the courts moving for some period of time, he felt that you should look at the situation and see whether it was feasible. He didn't want to trespass in any way upon the judiciary, however.

I'm personally convinced, if I may put it this way, that there is a legitimate and ranging need which in no way impinges upon the members of this House, that we will not be jealous of our prerogatives or stepped upon. But Lord, with respect to people who are getting in touch with us, we can't deal with everything. The minister is up against the same problem; he has his constituency problems, his people to attend to—

**Hon. Mr. Bales:** The largest constituency in the province.

**Mr. Lawlor:** Maybe you've got an inside track over private members—I don't know. Being a member of the cabinet, maybe you can get there faster; but we have no access to files. We have no way of finding out the true disposition of events. We're wholly in the hands—and on the whole, beneficially—of a wide-ranging civil service. Without any redress to us, they could certainly traduce us without turning a hair; we wouldn't know the difference.

There are all kinds of knotty problems, apparently more knotty than a Gordian one, which you can usually cut by a sword; but

swordlike as one's tongue can be on occasion, these knots won't cut. They remain obtuse and distant and say, "No." If there were such a person as an ombudsman of the province, I'm sure that a great rectification of human rights and a salving of wounds could take place. I'm personally convinced that it has great efficacy now.

Why you, of all governments in the country up to your regime, have taken a very hostile view or at least a stolid stance on this particular issue, quite puzzles me and always has. The British concept of the parliamentary commissioner is operative in every other jurisdiction, I suspect, except South Africa—and we can understand that—you don't want to be classified in the same libertarian stance as South Africa, really, do you? You haven't practised apartheid up to now, except with members of the opposition—

**Hon. Mr. Bales:** The door is wide open for members of the opposition.

**Mr. Lawlor:** But all I want to do, briefly, is to test you. Are you as adamant as previous ministers in this regard?

**Hon. Mr. Bales:** Don't you think we have done it? You know, there's always more than one way of approaching the problem. For example, the Statutory Powers Procedure Act is a unique type of legislation.

**Mr. Lawlor:** Yes.

**Hon. Mr. Bales:** I think it opens up to the public a very compelling way to have decisions reviewed and to go to the divisional court in a way that isn't available in other areas. I think there is perhaps too much of a tendency to say that in another jurisdiction they have an ombudsman. It's the popular thing.

There's always more than one way to deal with the problem. I think we've built many things into our legislation. When I was in the Department of Labour, I was very interested in the human rights legislation; that was one of my great interests. I used to sweat over those boards of inquiry. There was a particular case—and I won't mention it to you, because it was a very delicate case for my deputy minister—

**Mr. Callaghan:** I lost it.

**Hon. Mr. Bales:** He lost it.

**Mr. Roy:** You're among friends here; don't worry.

**Hon. Mr. Bales:** Yes, I know. But those kinds of things were very important to me. I think the ombudsman sometimes is a way of forcing an answer to a routine problem. I think we have more than that here. I'd be very amazed if any member of this Legislature could not get the answer to a routine problem such as the ombudsman may get. Now, Mrs. Campbell chuckles—

**Mrs. Campbell:** I just say be careful in making that statement.

**Hon. Mr. Bales:** All right. I've had my frustrations as a member as well; it takes a while to learn your way. But I think that in the more important issues, sometimes an administrative tribunal is where you should get a review—not just information but really a change, or an opportunity for change—and we've done or provided for that. I think it is more important to do it in those kind of areas than to say that we've got an ombudsman and that will satisfy all of this.

Now, perhaps you feel that an ombudsman can change many things. I feel perhaps in seeking out answers or seeking information—

**Mr. Lawlor:** Well, the man who was the inventor of the Judicial Review Procedure Act—the one who really devised the whole scheme—having once pronounced the power, doesn't see it as an alternative or a substitution for the ombudsman. I am inclined to go along with it for a while. Let's see how these various procedural safeguardings work.

McRuer is one of those—and increasingly among the legal eagles in the United States—who see civil rights ensconced in the niches of procedure. I, incidentally, don't. You see, I publicly want to disagree with my friend from Riverdale, because we have to disagree at least twice in public. I see it in the substantive rules. He says test it for a while to see if it does work—again with your magnificent panoply of new machinery and the added staff; 15 people added to the staff that you are going to have just to handle the inundation of material that you are going to bring to some collation.

Perhaps we could know just how many times the Statutory Powers Procedure Act was invoked or utilized in the court as the primary vehicle for getting before the appellate jurisdiction—the divisional courts? It would be very interesting. I suspect it won't be half as much as you think, and that the wrongs that go on unrepented and the wounds that remain open are constantly



there. We can apply the bandages in a wide number of areas, but the casualties remain.

It seems to me as the experience develops, you still have a lot of room. All I am really asking you to do is keep an open mind.

**Hon. Mr. Bales:** That is fair enough. The chief justice regularly tells me they are becoming busier month by month.

**Mr. Lawlor:** Divisional court?

**Hon. Mr. Bales:** Yes. I think 150 within the year—and you will appreciate it only began in April of 1972; so they didn't hear cases right away by any means.

**Mr. Lawlor:** Right!

**Hon. Mr. Bales:** About 150 in the year.

**Mr. Lawlor:** That is pretty good.

**Hon. Mr. Bales:** And that is a small year.

**Mr. Lawlor:** It is in the form of litigation; it is in the form of a court proceeding—many people shy away from it; it costs much money. But I think I said I didn't want to prolong that particular issue; just wanted to bring it up. That is all I want to say on this vote.

**Mr. Roy:** Madam Chairman, am I next?

**Madam Chairman:** Mr. Singer is actually ahead of you.

**Mr. Roy:** Yes, but he relinquished it.

**Madam Chairman:** So supposing we proceed.

**Mr. R. B. Beckett (Brantford):** I think we should wait for Mr. Singer.

**Madam Chairman:** Go ahead.

**Mr. Roy:** I might say to the minister that, in my short experience in this estimate, he exudes more confidence—and that is welcome—than last year. You are getting above the idiosyncrasies of the ministry. But, anyway, what I wanted to talk about was the legal advisory services.

**Mr. Lawlor:** He has just learned to fob us off, and we are patsy enough to take it, too.

**Madam Chairman:** I was going to suggest to you, Mr. Roy, that it was a little bit of both on both sides last year, wasn't it? You know, having been here last year—

**Mr. Roy:** I have always been extremely cocky.

**Madam Chairman:** No, no, you were both new last year; as I was.

**Mr. Roy:** Okay; I want to talk about—

**Mr. Lawlor:** I wonder which one of the three has learned the most?

**Mr. H. C. Parrott (Oxford):** That is not a fair question of—

**Mr. R. F. Ruston (Essex-Kent):** Better not go into that.

**Mr. Parrott:** No.

**Mr. Roy:** It is nice to see you here.

**Mr. Beckett:** That is "parrot" for "Parrott."

**Mr. Roy:** I think, Mr. Minister, this legal advisory service gives advice, opinions, to various departments in relation to legal problems they might have. Very recently I think you had occasion to give advice—could we have a bit of order here, Madam Chairman? You gave a legal opinion in relation to the health problem that was referred to you by the public accounts committee.

**Mr. Callaghan:** That wasn't given to the Ministry of Health, it was given to the public accounts committee.

**Mr. Roy:** Yes, but that is the service you render.

**Mr. Callaghan:** That is right.

**Mr. Roy:** And I would like to deal with that aspect of it, if I might, Madam Chairman; and deal with another department and get your legal opinion on a problem existing now, and that is the question—

**Hon. Mr. Bales:** Mr. Roy, we only give considered legal opinions.

**Mr. Roy:** Oh yes, I am sure—like I said, you exude confidence at this stage and I am sure I will get an opinion.

**Hon. Mr. Bales:** Not a curbstone opinion, you know.

**Mr. Roy:** I would like to discuss with you the question presently before the House on this tax bill—I am looking for a legal opinion.

**Mrs. Campbell:** And the minister said that he would get it if he was asked.

**Mr. Roy:** I would like to know the minister's opinion on the legality of collecting a tax prior to the bill having been passed in



the House. Now, I appreciate you have retroactive sections in that bill—

**Mr. Lawlor:** What would you do if you thought it was thoroughly unconstitutional?

**Mr. L. A. Braithwaite** (Etobicoke): You don't expect a reply, do you?

**Mr. Roy:** Yes, I do; I really do.

**Hon. Mr. Bales:** I said I would give it considered legal opinion. If you care to submit it to us, we would be glad to consider it.

**Mr. Renwick:** He will give it after royal assent.

**An hon. member:** Tomorrow morning about 6 o'clock.

**Mr. Roy:** I would just like to ask the minister. After all we are here for information and that is one of the services you give, according to this estimate under legal advisory service; and as members of the House we are entitled to it—

**Hon. Mr. Bales:** We insist on the opportunity to give careful consideration to the matter.

**Mr. Roy:** Oh, come now, you are not going to sneak behind that veil, that is just like—

**Hon. Mr. Bales:** I insist, I tell the Premier (Mr. Davis) I will not give instant opinions unless it is something that is—

**Mr. Roy:** Well, let me give you an opinion—

**Hon. Mr. Bales:** I don't mind you, Mr. Roy, giving me an opinion any day.

**Mr. Roy:** I suggest to you you cannot force the public to pay that tax now, before the bill has been passed in the House. You can come back to the public, if it is retroactive, and say that a tax started May 1; but before the bill is passed you cannot, first of all, compel the merchants to collect it and you cannot force the public to pay it. Now, what do you think of that?

**Hon. Mr. Bales:** Well, you have given me your opinion and we will be glad to consider it.

**Mrs. Campbell:** You mean you haven't already?

**Mr. Roy:** Are you saying that the Treasurer (Mr. White)—

**Madam Chairman:** Mr. Roy, we are talking to the estimates—talking to civil litigation and legal advisory services. This does not provide for your opinions to be inserted into the estimates on terms of this subsection.

Interjections by hon. members.

**Madam Chairman:** You asked for an opinion and you have been given an answer, but I just think that now you are in a speculative area which really is not contributing to the estimate.

**Mr. Braithwaite:** Madam Chairman, what about merchants who are not collecting the tax? Does the government intend—

**Madam Chairman:** I am sorry, Mr. Braithwaite, Mr. Roy has the floor.

**Mr. Braithwaite:** Well, he gave it to me for a minute.

**Madam Chairman:** No, he didn't. I am sorry, he did not. Mr. Roy has the floor.

**Mrs. Campbell:** He yielded.

**Mr. Braithwaite:** He yielded and I took it.

**Madam Chairman:** I am sorry, none of this is proper in terms of what we are dealing with.

**Mr. Roy:** Madam Chairman, I think it is—

**Madam Chairman:** No, no, you asked for an opinion and the Attorney General gave you an answer. Then, for you to offer your opinion on the same subject is really quite irregular.

**Mr. Roy:** Okay, never mind my opinion—

**Madam Chairman:** Your opinion can be offered in the House; it has nothing to do with these estimates.

**Mr. Lawlor:** His opinion might be important—he just could be the Attorney General some day, God bless him.

**Hon. Mr. Bales:** I would change only one word in that.

**Mr. Lawlor:** I can't help that.

**Mr. Roy:** Madam Chairman, I relinquish the floor—

**Madam Chairman:** Are you quite through, Mr. Roy?

**Mr. Roy:** No, I am not through.

**Madam Chairman:** Well then, you had better stay with your subject.

**An hon. member:** What subject? What subject?

**Madam Chairman:** If Mr. Braithwaite wants to raise a question or to make a speech later, I will write his name down.

**Mr. Roy:** Madam Chairman, don't chain us.

**Madam Chairman:** No, no, you have had the floor. I have asked each member of this committee to speak to each item once and raise questions after.

**Mrs. Campbell:** We haven't conducted ourselves in this way since this committee started, Madam Chairman. We operated exactly the same way with Mr. Renwick yesterday and with others in precisely this way. Why are the rules different when we get on this subject?

**Madam Chairman:** No, no, I laid this down in the procedures when I started.

**Mr. Roy,** the fact is that you raised a question; the Attorney General gave you an answer. Now, I am suggesting to you that in the terms of what we are doing—our business is the examination of the estimates—that we continue with the examination of the estimates on this item.

**Mr. Roy:** Let me continue then. Dealing with this problem, are you contemplating any action against the merchants who are not collecting the tax or against the public who are not paying the tax?

**Hon. Mr. Bales:** We are not aware of any who are not.

**Mr. Roy:** Pardon me?

**Hon. Mr. Bales:** We are not aware of any who are not.

**Mr. Roy:** Some people publicly, on television, have said they are not.

**Hon. Mr. Bales:** This banter back and forth is fine. I think I have learned a lot and we do learn a lot from these estimates, but we are dealing here with the moneys for the ministry to carry out its work.

**Madam Chairman:** Yes.

**Hon. Mr. Bales:** What you are saying to us is, "Give me an opinion directly, at this moment." That isn't the way it works. Really

your question, with due respect, Mr. Roy, is not relevant. It may be of interest to you and I appreciate that.

**Mrs. Campbell:** Then if we don't pass the estimates until he gets an answer, I suppose that would make it relevant.

**Hon. Mr. Bales:** That isn't the way you get legal opinions in the government on these matters.

**Mr. Roy:** Mr. Minister, we are dealing with an area, where, I take it, this branch of your department gives out opinions on a continuing basis. I realize that there might be some merit in saying, "We just don't give opinions like this." But I just wanted to discuss some views with you.

Surely, it is not news to you that you have been collecting the tax since May 1, and we are now at May 3. For three days we have been collecting the tax. There has been some banter back and forth about this. However, I would really have thought that the ministry would be in a position to tell me on what authority the government is relying or that department is relying to say to the merchants that they must collect the tax and that the public must pay the tax prior to the bill receiving royal assent or third reading in the House. I would have thought that it would seem like a fair question if something had happened as regularly in the House. Have you no comment on that at all?

**Hon. Mr. Bales:** No, not at this time.

**Mr. Roy:** Have you received any requests or any demand for an opinion from the Treasury department on that?

**Hon. Mr. Bales:** No, they have competent legal staff who are seconded from our area—or at least, whom we have taken back into our area as of April 2. They are very competent people and are dealing with the matter. I know that the minister, I am sure, sought the necessary opinion on it before it was to become law.

**Mr. Roy:** Let me say this, that you are an arm of the government and you are part of the government. The government is doing something which many people have doubts about.

Are you saying, as Attorney General, the chief law officer of the Crown, you can't tell us, or you can't advise the public whether what this department is doing is legal or not legal or has any basis in law or no basis in law?

**Hon. Mr. Bales:** You appreciate, Mr. Roy, that I have several functions, one of which is, through my ministry, to advise the government and others on how to answer questions or deal with matters generally. At the moment, we are dealing with the matter of the estimates, approving money for various programmes.

**Mr. Roy:** I appreciate that, but surely I can raise a question. You seem to think that I am going outside the estimates.

**Hon. Mr. Bales:** No, I don't mind you raising a question at all.

**Mr. Roy:** No, but you seem to think that the only thing we can talk about is the \$694,000 that is being spent on this item. Mr. Lawlor through all his comments didn't deal with monetary things. He has dealt with principles and with policy.

**Mr. Lawlor:** Always talking policy.

**Mr. Parrott:** He was away off the line.

Interjections by hon. members.

**Mr. Roy:** I must say, very frankly, I am amazed that the government is doing something which is somewhat questionable, or at least something which is being raised by people as being questionable from the legal point of view, and that your people who give legal advice to various departments are not in a position to say whether what they are doing is legal or not legal. I can't understand it.

**Hon. Mr. Bales:** As I indicated to you a few minutes ago, there would be advice to government as such. All those kinds of legal opinions are confidential.

**Mr. Roy:** They are confidential?

**Mrs. Campbell:** To the public?

**Hon. Mr. Bales:** To the government.

**Mr. Roy:** But surely we as members here are entitled to know when people call us and say can they do this? Frankly, I am of the opinion that you can't, not until the bill is passed.

**Hon. Mr. Bales:** You are a competent lawyer, Mr. Roy. I am sure you would give your opinion on it.

**Mr. Roy:** No, but I would like to be able to tell my constituency the ramification of this. If a merchant calls me up and says, "Do

I have to collect the tax?" what can I say to him? I have talked to the Attorney General and he tells me he doesn't know.

**Hon. Mr. Bales:** No, I didn't say that, Mr. Roy.

**Mr. Roy:** You are not telling me anything.

**Hon. Mr. Bales:** I said to you that my advice goes to the government.

**Mr. Roy:** To the government? What about me? Can't I, as a member of the assembly here, advise my constituents? Isn't that the service I am supposed to render to them? I say to them that I'll address myself to the chief law officer of the Crown. And I have addressed myself to the chief law officer of the Crown and he doesn't give me an answer.

**Hon. Mr. Bales:** What I said to you was that legal opinions have to be carefully considered. I am not going to give any off-the-cuff or curbstome opinions, as I sometimes used to refer to them when I practised law. This is a very highly technical matter, and you well know it.

**Mr. Roy:** Sure I know it.

**Hon. Mr. Bales:** You have your opinion which is perhaps shaded a little politically, and that's no derogation of you—

**Mr. Roy:** No.

**Hon. Mr. Bales:** —or anybody in this room. But my job—and it is the job of the ministry not mine personally—is that of "chief law officer", that is, chief law officer to the government.

**Mr. Roy:** What about the client?

**Hon. Mr. Bales:** What you were saying to me in effect, Mr. Roy, is, if you are chief law officer of the government, then you must deal with all matters of confidentiality with me. That isn't the case.

**Mr. Roy:** Yes, but it is not only a question of confidentiality with the government here. There are six million or whatever is it, taxpayers out there who are paying the tax. There is a whole group of merchants who are collecting a tax. People are raising serious questions of legality about this situation. So they turn to their members. I suppose every member here has received some requests.

**Mrs. Campbell:** Put a petition then on the question.



**Mr. Roy:** They ask us, "Is it legal for people to be paying the tax or for people to be collecting the tax?" So I say I am not sure. You know as well as I do, when you are dealing with strict questions of law, politics has very little to do with it. If the speed limit is 30 miles an hour, if I go 45 I am breaking the law, whether I am a Liberal or a Conservative.

**Mr. E. W. Martel (Sudbury East):** Oh, I wouldn't say that.

**Madam Chairman:** Mr. Roy, you have raised this question and you have had a number of answers. You have raised the question and you repeat it in different forms.

**Mr. Roy:** No.

**Madam Chairman:** You have now had answers. I think maybe you should move on to your next point.

**Mr. Roy:** No, Madam Chairman, I am not quite finished with this point, if I might complete this, because the Attorney General has said to me that this is a question of confidentiality between himself and the government.

**Hon. Mr. Bales:** What I said to you before was that we are dealing with the estimates. We are dealing with general matters, to give you information as to the ministry, the logistics, and so on. This is not a forum, or an area or a place wherein we provide substantive legal opinions.

**Mr. Roy:** So to complete this thing—and very frankly I suppose all of this is going to be academic by tomorrow morning if your confreres are intent on passing this thing overnight. But in any event—

**Hon. Mr. Bales:** I don't know that they are. I don't know what stage we're at.

**Mr. Martel:** That is the rumbling. That is another bill yet.

**Hon. Mr. Bales:** Aren't we dealing with a different bill? The shoreline bill or something?

**Mr. Roy:** Yes, but you know it is not as though we were given 24 hours' notice about what is going to go on next in the House, but in any event—

**Mr. Martel:** I played it safe. I told the merchants to collect it and I told the people not to pay it.

**Mr. Roy:** But we are in a situation where I must go back to my constituents and I cannot give them an opinion because the chief law officer of the Crown would not give me one.

**Hon. Mr. Bales:** Mr. Roy, when I was a private member of this Legislature, in the same profession as the member, I sometimes had to give opinions and I didn't hesitate. I didn't always go running to the Attorney General of the day and say, "What am I going to say about this or that?"

The member is a person of opinions. He can make up his own mind and he is called upon to do so the same as I was called upon to do—

**Mr. Roy:** But the minister must realize I don't have all the facilities and the brainpower—

**Hon. Mr. Bales:** I had no more facilities than the member has, unless he is going to attribute that to me personally—

**Mr. Roy:** I am going to sound like when I used to plead before a jury and I used to think about all the fantastic rigmarole of the Crown against one poor counsel.

**Hon. Mr. Bales:** Don't forget you were a Crown attorney.

**Mr. Roy:** How would I go about testing this? Will you give me an opinion on that? How would I go about it, as a lawyer? I would probably—

**Hon. Mr. Bales:** The member has much native ability in the law, I would use that good native ability that he has.

**Mr. Roy:** The Attorney General can't give me an opinion on that either? Really I think he is skirting the question, very frankly, with the greatest of respect.

**Hon. Mr. Bales:** That is a cliché that the member is using.

**Mr. Roy:** No, I do have respect for the minister as a person but right now as Attorney General, chief law officer of the Crown, he hasn't helped me very much.

**Mr. Martel:** You don't want him to get the Treasurer in trouble, do you? He is in enough trouble as it is.

**Madam Chairman:** Mr. Roy, do you have another point to raise on this item?

**Mr. Roy:** I am not very enthused about raising anything else with the minister at this rate.

**Madam Chairman:** Is there any further comment? If not, is this item carried?

Vote 1204 agreed to.

On vote 1205:

**Madam Chairman:** We will move to page J20, vote 1206 — courts administration programme.

**Mr. Renwick:** Vote 1205, Madam Chairman.

**Madam Chairman:** I am so sorry.

**Hon. Mr. Bales:** Legislative counsel. Mr. Alcombrack is here legitimizing it.

**Madam Chairman:** Page J18, vote 1205, item 1, legislative counsel services programme—Mr. Alcombrack is here. Mr. Lawlor?

**Mr. Lawlor:** I think I will say a few words this year on legislative counsel and the drafting process and what goes into it.

They are a strange breed of men—according to the reports I get, there are about 30 people highly qualified to do this sort of thing in this country. That may be a low figure. There isn't any course—or hasn't been until recently; I believe the University of Ottawa has presented a course in legal draftsmen, I think he still is among the draftsmen in Ottawa. I suppose they must be the recipients of certain slings and arrows proceeding from the judiciary, first of all; secondly, from the profession and a fortiori from the general public as to the obscurity of the law, the failure to—may I have a little order please, Madam Chairman?

**Madam Chairman:** Go ahead, Mr. Lawlor. Just one meeting, please.

**Mr. Lawlor:** Thank you, Madam Chairman. As people become more aware, as the sense of participation grows in society, as the socialist cause festoons and grows on apace, as awareness of the body politic and things legal have greater impact upon the man in the street, his puzzlement and his willingness and desire to understand becomes more and more pressing—and that is what is happening. Previously it was an esoteric little clique that dealt with these things but now it is more and more people; and the chief complaint that you get, not only from the general public, but from their elected representatives in the

House time after time is: What does it mean?

Particularly in fiscal legislation as we pass that stuff through the House, not one member in 50 understands what it means. I say with all respect—I am among the 50 most of the time, and I am almost convinced in most instances that the man who is processing the legislation hasn't got a glimmering of what the meaning might be either—as is happening upstairs right at the present moment.

Reading through some law the other day, whiling away my time, nothing better to do, I looked at a man of enormous eminence in the British scene, Lord MacMillan, who happened to have a few words to say about this in an address he gave many years ago to the Canadian Bar Association in Regina—in 1928 actually. He talked about statutory draftsmanship and about the obscurity of wording and ambiguity and he mentioned Lord Thring and gave some amusing examples of how not to draft.

A statute, for example, of George III's reign enacted "that the penalties under the Act were to be given one-half to the informer and one-half to the poor of the parish. As the only penalty prescribed by the statute was 14 years' transportation, neither the informer nor the poor would be likely to be grateful." This sort of thing happens all the time.

A ludicrous instance of faulty drafting is to be found in Darlington's Improvement Act which defines a "new building" as meaning, "any building pulled or burned down to or within 10 ft of the surface of the ground." That is a new building!

An amendment proposed by a certain QC to a bill reaches the high water mark of ineptitude. It proposed, "that every dog found trespassing on enclosed land unaccompanied by the registered owner of such dog, or other person, who shall on being asked give his true name and address may be then and there destroyed by such occupier."

Mr. Justice Rowlett, whose unhappy lot it is to spend his days unravelling the revenue laws of the United Kingdom, in a recent case dealing with section 31 of the Finance Act thus expressed his justifiable exasperation:

That section, in five pages of the law reports edition of the statutes, makes piecemeal amendments of section 21 of the Finance Act, 1922, which make it perfectly unintelligible to the layman and to any lawyer who has not made a prolonged study of it with all his law books at his



elbow. The crying scandal is that legislation by which the subject is taxed should appear in the statute book in an utterly unintelligible form.

I am told by the Attorney General, and rightly told I am sure, that it is only in this form that the legislation can be carried through at all, then all I have to say is that the price of getting this legislation through is that the people in this country are taxed by laws which they cannot possibly understand. This is the worst example that there ever has been upon the statute books.

It goes on, page after page, with these examples, and finally a commentator points out that the same statute contains another egregious specimen of contemporary legislation. Let me read it to you:

Any individual upon whom notice is served by the special commissioners requiring him to furnish a statement of and particulars relating to any assets in which at any time during the period specified in the notice he has had any beneficial interest and in respect to which, within such period, either no income was received by him or the income received by him was less than the sum to which the income would have amounted if the income of such assets had accrued from day to day and then been apportioned accordingly shall, whether an assessment of supertax in respect of his total income has . . .

And I think I've made my point.

Hon. Mr. Bales: Madam Chairman, you know, I think all of us enjoyed it but nobody enjoyed it more than the member for Lakeshore just reading it.

An hon. member: He drafted it.

Hon. Mr. Bales: He drafted it!

Mr. Lawlor: Touché. I was going to come to that. In an article by Sir Leslie Scarman in the Listener in 1969, he talks about Lord Mansfield. He sets up a curious dichotomy between the judiciary on the one hand and the legal draftsmen of the legislators on the other. He puts it this way:

. . . the almost pathological avoidance by Parliament of any declaration of principle which characterizes our statute law. The courts and Parliament are too often in the posture of two men fighting a duel. Parliament asks itself, "Is this statute sufficiently specific in detail to prevent the courts from wriggling out of its provisions?" But the courts, duty bound to pro-

tect the citizen, look for the loophole, the way of escape. This is a bit of a caricature but those who practise the law or take part in the preparation of legislation will recognize it as a caricature of genuine attitudes, not mere fiction.

I think there's a great deal of truth to that.

It seems to me, particularly in terms of financial legislation directly affecting the pocketbook of the citizen, in tax avoidance and not tax evasion, there's an animus, an onus, a weight imposed by the courts to get the citizen off the hook on the whole. Therefore, there's an added weight upon the draftsmen of the Legislature to set up the legislation so finely and delicately and obtusely and obscurely and convulsively and convolutedly as to catch any possible loopholes and to get those judges into a corner from which they cannot possibly escape, largely because they don't know what it means and have to impose the law.

He goes on—he's trying to solve the riddle and the difficulties and needless obscurity in the law:

Will the government, Parliament, the courts, the legal profession, accept that the source of our law ought not to be cases [and this is what I think], but well drawn and comprehensible legislation itself? Will the lawyers be prepared to change the emphasis of legal education from the study of judicial decisions to that of statute law, its preparation, interpretation and application?

That works in precisely with the codification business that I was talking about the other day—the fatal reliance upon decided cases; the extractions of ratio decidendi from cases which use up such an enormous amount of human intelligence to very little purpose in the end.

There's still a creative role left to the judiciary within this, in the interpretation and application of the legislation. The weight from this point on — and it has been fairly recent, since 1925—is a retrograde mood.

There's a feeling that we ourselves having been duly anointed in the sacred waters of Osgoode Hall and that having left its mark upon us, must perpetuate the old system, leave the obscurity and let case law have a predominance so that somehow statutes and legislation are held in contempt. They are a kind of a secondary form. They're not the real common law—but they really are distillations of the common law under ongoing and contemporary situations and not throwbacks



to some arbitrary and neolithic past which, for some reason or other, people seek to try to perpetuate.

Why? Partially because it dresses up our vanity. A really great lawyer does know an awful lot of obscure cases and he has little notebooks that he keeps writing in. I've seen some of them even bringing them to court sometime when they've noted down or jotted down a case from 1925 which nobody else ever heard about but which comes in handy on a particular occasion in a particular context.

**Mrs. Campbell:** They're lucky if it's 1925. It could be 1770.

**Mr. Lawlor:** Good for you; I meant 1223. It's not so common in the criminal law because it is codified although there are dregs left over from the common law within that particular context, too. He says:

How do we set about securing that legislation is well drawn and comprehensive? At this moment, the argument is it is fashionable to abuse the parliamentary counsel who draft the bills introduced into Parliament.

The abuse is wide of the mark. With fantastic skill and a high degree of precision they do what they are instructed to do, that is, draft the legislation the government wants passed into law. Their masters are our targets. Yet the politicians believe that votes can be won by campaigning for improving the clarity and accessibility of law. That, at least, would be a beginning.

But manifestos are not enough. There must be action by all who are concerned in the preparation and passing of Acts of Parliament. I believe the answer lies in the establishment of new machinery of government, as well as in reforms of the parliamentary process. We must recognize that most legislation inevitably originates from government departments. At this early, formative stage there is a need for scrutiny to ensure that the proposed legislation, in its arrangements and language, meets the needs of clarity, comprehensiveness and principle required by the legal system.

In the book on tangles that I had the other day, one of the tests proposed for this was to take a fairly well-educated man off the streets and, in the way of a wine taster or a tea man—you know, who tests kinds of tea—have a legislative tester. The minister or his deputy would sit down with this chosen

individual or individuals, all enclosed in separate rooms, and read over the sections involved. They would look him straight in the eye and say, "Does it make any sense to you?" And if the poor devil just nodded his head and looked blank, there was something wrong with the draftsmanship.

**Mr. Parrot:** Would you go so far as to include Hansard?

**Mr. Lawlor:** That's pushing it pretty hard. I don't think people are obliged to read Hansard. Sometimes they're obliged to read the Acts. They may be caught in them.

The whole business and problem of parliamentary draftsmanship does require, it seems to me, an area where people can, first of all, get a kind of education within the department—like a journeyman—and that's the way they come out. But for us people, for instance, we learn about parliamentary draftsmanship from reading the bills over long periods of time, and that kind of an education is second-hand.

I think we should be exposed more to the instruments that you have at your disposal and that there should be some kind of schooling involved in this particular area, not only for the training of future draftsman, but for people who are directly interested in this particular process.

Apart from that, there is, and there continues to be, great obscurity of language. You fall, like all professions, into occupational diseases—there is a way of formulating or wording a thing and it comes by habit, like salivating with the ringing of the bell.

I think you lose touch with the general public. You know what it means—or think you do—because you're the one who wrote it. What is the real testing process involved in this thing? Has the best and simplest use of language been made in the context? We don't, in the House, spend a great deal of time over problems of language. We're more concerned usually, within the time limitations we're up against, with the meat of the bill, not with its aesthetic decorations or the way in which it's enunciated.

I think that we should, as part of our responsibilities as critics in the House, be more sensitive to the actual wording and take offence and point it out. If necessary, we should redraft the section as we think it should be, not because we disagree with the content but simply because we think that the way in which it is expressed or enunciated is not clear enough and isn't palatable to a

reasonably educated person in the general public.

**Mr. Martel:** I would just, if I could—

**Hon. Mr. Bales:** Could I just say a word to Mr. Lawlor? You know, Mr. Lawlor, I always hesitate a little bit to try to become the expert in somebody else's field. I think when you are drafting legislation it is very difficult, because it is a real science. Yet there have been occasions when I sat down with a bill, looked at it and said, "Okay Bales, what does this really mean when you read it, and does it mean what you intend it to mean?" I can think of one particular bill now passed by the House—not when I was in this ministry but another one—that we rewrote until I was satisfied. It was really Mr. Alcombrack or somebody in his area who was helping me, but we rewrote it to be sure in my own mind that it said what we intended it to say. I think that is what you are getting at, that it should be in as simple a language as possible.

**Mr. Martel:** My point adds to that. Those of us in the opposition who have to criticize a bill — and I have to do that sometimes — often simply cannot understand them. I spend hours and hours and hours just trying to track down the numbers and the references and whatnot. In God's name, when I am finished after six or seven hours' work I still don't know what is in the bill. Maybe I am dense, but I just can't understand it.

**Hon. Mr. Bales:** I am full of understanding.

**Mr. Martel:** I went over the recent bill, not the one introduced today by the Minister of Community and Social Services (Mr. Brunelle), but the one on the—

**Mrs. Campbell:** Charitable institutions?

**Mr. Martel:** —charitable institutions—

**Mrs. Campbell:** That's a dandy.

**Mr. Martel:** —two and a half or three weeks ago, and I have spent more hours on that bill—

**Mrs. Campbell:** So have I.

**Mr. Martel:** —and I still can't track it down. I can't even get the numbers to correspond.

**Hon. Mr. Bales:** Which one?

**Mrs. Campbell:** The Charitable Institutions Act amendments.

**Mr. Martel:** I had the 1971, the 1972, the 1970 and the Revised Statutes for 1960-1970 and the regulations, and I still can't make head nor tail out of it.

**Mrs. Campbell:** Neither can I.

**Mr. Martel:** In fact, the minister sent me over the latest consolidated office bill on that and I am still lost. I just can't even get the numbers to correspond.

**Hon. Mr. Bales:** I think, on the other hand, you have to recognize, Mr. Martel, that society today is kind of complex and it may not be able to say everything in the simplest of ways to effectively say it.

**Mrs. Campbell:** This one's a bad one.

**Mr. Martel:** But how in the world can people other than lawyers understand it? I put this to the minister. I am not the best educated person around here but certainly not the poorest either, and I can't make head nor tail out of it.

**Hon. Mr. Bales:** In the way of estimates, and I am not putting the burden upon him, but Mr. Alcombrack has dealt with this matter for a long period of time and I think we'd all be interested in a little bit of explanation from him as to the background, not to the particular bill, but the background of how he tries to deal with this and the way he trains the people.

**Mr. W. C. Alcombrack** (Senior Legislative Counsel): I think first of all we have to look at the philosophy of government that we work under, which is our British system, where the Legislature is supreme, and not the philosophy they work under in the United States where the Supreme Court applies the intent of the legislation. Congress passes a bill, indicating the intent down there and the courts apply it. Here the Legislature is supreme and we must draft things, unfortunately, in such a technical way that sometimes, particularly as Mr. Lawlor says, when you are talking about the taxing statutes, where you are trying to cover every possible loophole, they do become very difficult to understand, there is no doubt about that. But we have to be technical because if the Legislature is going to be supreme and the courts are applying the legislation within the four corners of what they see in the Act, then we have to be very technical on it. You can't just do it as though you are writing a letter to somebody indicating a policy, and that is where the problem really lies.



**Mr. Martel:** Maybe the minister would make available to each caucus someone from his staff to explain each bill to us.

**Mr. Alcombrack:** I would say this further, that I don't think it is fair to just hand a bill or a statute to an individual on the street and say, "What does this mean?" In most areas, unless you are reasonably knowledgeable of the subject matter, you won't be able to interpret it properly. We have to write it on the basis that somebody who is reading it is reading it with some knowledge of the subject matter, and therefore is applying it to the circumstances that he has in mind.

**Mr. Martel:** But how are legislators who are not lawyers to cope with it?

**Hon. Mr. Bales:** Really, what the committee of the whole House is all about—

**Mr. Alcombrack:** I think you have to know something about the subject matter.

**Mr. Martel:** Oh sure, if you are the critic of the particular department you get to know that particular department. But I am just saying that to try and follow the bill I am talking about in particular, a Philadelphia lawyer would have difficulty.

**Mr. Alcombrack:** I haven't seen that particular bill that you are talking about, but from your explanation of your problems it seems to me that you are having trouble with the enacting formula, not the section that is re-enacted in the bill or in the statute itself. If you are talking about numbers and whatnot you are having trouble with the enacting formula, and I think the enacting formula is fairly simple actually. It sets out first of all, the Act that you are amending; it sets out the year, chapter number and section of every amendment in it, so it seems to me that you should be able to follow that in a fairly simple way.

**Mrs. Campbell:** They don't tally.

**Mr. Martel:** They don't tally in many instances.

**Mr. Alcombrack:** It is in every one. We put it in every one.

**Mrs. Campbell:** No, but you may have made a mistake.

**Mr. Alcombrack:** In every amending section we start out in the first section by telling you the name of the Act and the chapter of the Act that we are amending, and then

in each following one we give you the year of the Ontario statutes, the chapter number and the section of every amendment. Therefore, you can put it all together and look at what has been changed and what the new section is, or what the particular amendments are to the old section.

**Mr. Martel:** That sounds relatively easy, but I want to tell you that for a layman, even knowing the background—I have done considerable reading on the subject in order to be at all positive in the criticism I am going to make—it is still impossible. I am not trying to attack it. I get the impression you think we are being offensive here. We are not. We have problems. As the critic of a department one has got to be able to understand the bill—

**Mr. Callaghan:** Don't we explain by notes?

**Mr. Martel:** —and I am not trying to be offensive or anything.

**Mr. Alcombrack:** No, no, I realize that.

**Mr. Martel:** I am just saying that I can't understand it. I can follow it if it is numbered properly. I don't think this one is numbered properly in its entirety.

**Mr. Alcombrack:** I would say that one of the tests that we use in our office in dealing with statutes is that I have instructed all our lawyers that, when they draft a provision and then people who are reasonably knowledgeable of the subject matter read it and have trouble interpreting it, there is something wrong with it—it should be changed, even though you understand it, and even though it may be correct. I instruct them that they should have a pretty good look at it if somebody is having trouble interpreting it, providing he has some knowledge of the subject matter.

**Mr. Renwick:** Madam Chairman, assuming it to be in order, I'd like to move that the vote of the legislative counsel be doubled, and I would like the amount of \$350,000, representing the increase, to be divided amongst the members of the legislative counsel staff so that they can devise the amendment to section 10 of the Interpretation Act to give effect to what Mr. Alcombrack has just said, that the Legislature is paramount; having regard to the decision of the Court of Appeal of Ontario, which simply ignored section 10 of the Interpretation Act in the Constitutional Questions Act; and where we have had again today the conveyancer's



game and the corporate expert's game being played with the Loan and Trust Corporations Act, with respect to the extent or degree of Ontario control of an Ontario trust company.

I agree with the theory that the chief of the legislative counsel has put forward, that is the theory under which our system operates, but I just happened to have with me an excerpt from the *Globe and Mail* of March 16, 1962, and Dean Wright had this to say:

Even our judiciary, against whom there is not the slightest suggestion of incompetence or bias, are drawn from the same group of advocates who have become accustomed to specialized forms of advocacy and close association with clients and who cannot on this continent be expected to perform the role of advancing the public interest to the same extent or with the same background as their English counterparts who have never been closely allied with private interests.

I take the reference to the Constitutional Questions Act on the checkerboarding question to have raised a profound question of the capacity of our Legislature to frame in legislatively understandable language the expression of the intention of the Legislature, so that it cannot be overridden by persons who can devote themselves to a minute game of devising systems to defeat the intention of the Legislature.

Because I agree with the theory of government which the legislative counsel has enunciated, and because I certainly do not wish to see the courts giving a broad interpretation of what they may think we have had meant in our statutes, I am most concerned to see that section of the Interpretation Act given an immense amount of attention by the minister, with the assistance of the legislative counsel, to get it across to the courts that there is something called an intention of the Legislature, which is something other than pitting the draftsmanship skills of the legislative counsel against the conveyancer or the corporate practitioner's skills in downtown Toronto. Because I just don't think we've come here as legislators to be engaged in minute amendments to statutes to cover minor loopholes which have been found.

I think what Dean Wright said—and those of us who were taught by him wouldn't deign to refer to him as the late Dean Wright—

An hon. member: Caesar!

Mr. Renwick: What he said is quite right, that in fact the English courts, when called upon to do so, interpret the intention of the Parliament of the United Kingdom much more positively than our courts interpret the intention of the Ontario Legislature.

This comes about in a strange way. The science of draftsmanship is far more precise here than it is in the United Kingdom, or in the Congress of the United States, and yet we are trying to be extremely precise in our legislative draftsmanship!

In England the bills appear to be couched in rather more everyday language and in a rather more everyday way, and yet the Ontario Court of Appeal quotes English authorities to defeat the intention of the Ontario Legislature, ignores section 10 of our Interpretation Act, while the English authorities—the House of Lords, or the Court of Appeal in England—using the same statutory interpretation rules, will give effect to the legislative intent of the Parliament of the United Kingdom.

Now somewhere the system has gotten off—we're quoting the wrong authority for the right purposes. They don't have section 10 in England, and they get a broader interpretation of the intention of the House of Commons than the Court of Appeal will give to the intention of the Legislature of the Province of Ontario when we have section 10, which they then proceed to ignore and apply the rules in England.

There was debate today in the Legislature about the little bit of gamesmanship about Hambro's Bank and Ontario Trust Co. and what control constitutes. The intention of the Legislature was perfectly clear that control of the trust companies of the Province of Ontario, within certain rules, was to remain in Canada. The game is played so that now there are very real questions being raised. The Minister of Consumer and Commercial Relations (Mr. Clement) is going to have to now come back in with some amending legislation.

It is all very well for us to rail against the minister because he hasn't yet prosecuted—after all, it has been 24 hours since the story broke and so on—but the fact of the matter is that there is a serious legislative problem. I have the greatest respect for our legislative counsel and our capacity to deal with it, but we have simply got to deal with it.

As Dean Wright said, there is not the slightest suggestion of incompetence or bias

about the Court of Appeal, but it has managed to provide avenues by which the game can be played in such a way as to overrule the intention of the Legislature and we get into the situation where my colleague the member for Sudbury East is quite right. Non-legal members of the assembly come into the assembly under an absolutely immense handicap. With the best will in the world they are faced with legislation where the explanatory notes are not helpful; the problem of understanding what the bill is inhibits them from participating in the debate. All one has to do is sit in the Legislature and to realize that the opposition carriage of criticism of bills unfortunately devolves upon the legally trained members of the opposition.

Somehow or other we are ruling out the legislators of the Province of Ontario from meaningful participation in the debate on the bill with respect to the clause-by-clause operation. The principle of a bill is a different matter.

I therefore think that one of the 1001 things in which the ministry can engage its time is, somehow or other, through the legislative counsel's services programme, to solve that problem of expressing the intention of the Legislature, using the Interpretation Act as the vehicle, and then in some way or other to expand the services of the legislative counsel services programme to the various caucuses.

Let me say this. I have found, and every member of our caucus has found, the legislative counsel's staff to be courteous, co-operative, and we can deal with them in total confidence on any matter of any kind. I don't think the staff is available for the point which the member for Sudbury East was making. The staff is not large enough to permit them to say, "Well, all right. For the caucus of the Liberal Party or for the caucus of the New Democratic Party we will have available, when you are discussing bills in caucus, one of the members of the legislative counsel staff to say, 'This is what the bill means and this is the purpose of the bill'; but not for the purpose of arguing with the legislative counsel about what it says." I'm quite certain the same facility would be of immense assistance to a large number of the members of the Conservative caucus who are non-lawyers.

But I would think to accomplish any one of those two or three purposes to which I have referred, and to which my colleagues from Sudbury East and from Lakeshore re-

ferred, would mean some relatively substantial increase in the staff of the legislative counsel programme, but would be very worthwhile. If it is in order for me to do—but not in any facetious sense—I would move, for the purpose of making my point, that the amount allocated for the legislative counsel services programme be doubled.

**Hon. Mr. Bales:** There is only one thing, I appreciate the point you are making in the general way.

One of the practical difficulties and I particularly refer to your suggestion that somebody might be there to explain to the caucuses or to answer the caucuses' questions, if I can put it that way, Madam Chairman—is that the person who drafted it would have to be the one that would be there. They work on them particularly or as individuals. So there is a practical problem from that standpoint. Other than that, I see merit in having some of the legislative counsel provided to the various caucuses as assistants.

I'm sure you go to them individually. I know that you go—

**Mr. Renwick:** We do.

**Hon. Mr. Bales:**—and seek them out to draft bills. It's quite right that you should.

**Mr. Renwick:** Yes.

**Mr. Lawlor:** You never go back to them, though, to ask them what their interpretation is. We have to rely upon the notes, I think. I think it's unfair to them in a way.

**Hon. Mr. Bales:** I think there is nothing to prevent anybody from going back and asking for an explanation from the legislative counsel as to a bill that is introduced in the House.

**Mr. Renwick:** I agree there is not. There may not be full use of them but they are very busy people. There is no question about that.

**Hon. Mr. Bales:** There is no question about it. I would say we are taking advantage of their services to a much greater degree—for example, in the legislative committee and the regulations committee—than we ever did before and seeking their advice. I find it's very helpful when those bills are under consideration to have the legislative counsel present and be able to go into it in detail as to the meaning of the phraseology and the background with the other Acts, and so on.

**Madam Chairman:** Mr. Renwick.

**Mr. Renwick:** Yes?



**Madam Chairman:** I appreciate you have presented us with a motion. I also appreciate you have not presented me with a written form of the motion, nor have you at the moment a seconder. I believe that your motion is a motion to supply and is not in order according to the rules. According to item 86 in the standing orders, your motion is only in order if proposed as a message by the Lieutenant Governor and introduced by a minister of the Crown. I think you have made a very good point, but I don't think that your motion is legal within the meaning of the standing orders.

**Mr. Renwick:** I didn't want to get into a technical argument as to the meaning of the rules. It seems to me that if we in committee can reduce the vote we should be able to indicate the opposite effect of the thrust of our arguments by recommending an amendment to the estimates which would involve an increase. Since we are sitting in committee and not dealing in the House, I question whether or not we need to have the Lieutenant Governor come here in order to produce the message that would support the motion that I wanted to put through, which undoubtedly he would.

**Madam Chairman:** Well, regrettably, section 86 is very explicit.

**Mr. Lawlor:** Is it?

**Madam Chairman:** Section 86 says:

Any bill, resolution, motion or address, the passage of which would impose a tax or specifically direct the allocation of public funds may not be passed by the House unless recommended by a message from the Lieutenant Governor and may only be proposed by a minister of the Crown.

**Mr. Renwick:** Madam Chairman, may I draw to your attention—

**Madam Chairman:** You have made an important point.

**Mr. Renwick:** —what you are quoting is much more holy writ than perhaps even you conceive it to be. It is a direct quote from the British North America Act. Apart from the fact that there was no quorum in the British House of Commons when the British North America Act was passed, it happens to be very important.

**Madam Chairman:** I didn't realize it was such an historic item.

**Mr. Roy:** May I make a suggestion?

**Mr. Renwick:** However, I have registered the point I make.

**Hon. Mr. Bales:** You sure have.

**Mr. Renwick:** I would like the minister to respond to one other point. I happen to think that question of the intention of the Legislature and section 10 of the Interpretation Act is a crucial part of the evolving role of the Ontario Legislature. There must be some solution between the response of the Court of Appeal to the constitutional questions reference on the checkerboarding and the principle which must be followed under the system which is followed in the Congress of the United States. I would ask that that matter be specifically referred to the legislative counsel along with your other law officers to see whether they can't come up with some way of expressing to the courts of the Province of Ontario that section 10 or an amended equivalent has some meaning.

**Hon. Mr. Bales:** I listened to your remarks on this the other night. I was sitting back under the gallery the night that you spoke on this same matter during the estimates of the Provincial Secretary for Justice (Mr. Kerr) and I was intrigued.

**Mr. Renwick:** Three times.

**Hon. Mr. Bales:** I was interested in it as I listened to it quietly there that night. I would say to you that I was intrigued to set in motion a study on the matter. My knowledge of it is not exhaustive—certainly not. But I'm interested in it and we will be pursuing it.

**Mr. Renwick:** I'm glad to have that expression of interest because I think it's potentially a serious problem, when you think of the government of Ontario venturing into the area—and I mean this in no partisan sense—

**Hon. Mr. Bales:** No.

**Mr. Renwick:** —of a land use programme, for example, for the Province of Ontario and the problems that that will raise.

**Hon. Mr. Bales:** That's right.

**Mr. Renwick:** We've got to have some method of making it perfectly clear that the general intent of the Legislature has to be expressed in such a way that we don't get involved in a cat-and-mouse game with the courts over the issue and that the final arbiter remains, as Mr. Alcombrack has said, the voters in the province.



**Madam Chairman:** Thank you, Mr. Renwick. My next speaker is Mrs. Campbell.

**Mrs. Campbell:** Thank you, Madam Chairman. I just have a couple of points. The member for Lakeshore was speaking about the language of bills. One of the things that disturbs me is that sometimes I wonder if those drafting them are experienced in the matters which come before them. I would like to know that, because I'm thinking of one Act where actually the word "the," which is about as simple as you can get, causes about the greatest difficulty of any statute in the province in one of our courts.

The effect of it of course is that it says in this particular statute, once a judge has adjourned a case, then he is seized of that case, apparently through all eternity or at least as long as he or she is sitting in the courts. So it isn't always just the effect of complex language. It can be what appears to be the lack of knowledge of the draftsman as to how these things function. I'd like some clarification on that.

**Mr. Alcombrack:** Naturally, legislative counsel can't be experts in all fields.

**Mrs. Campbell:** No.

**Mr. Alcombrack:** We are kind of jacks of all trades in relation to the law generally and the specific problems in the law. In all cases, we take advice from those that we think can be helpful, mainly from within government. If it's a problem that not too many people in government have been dealing with, we do call in outside experts, take advice on it, discuss the drafts with them, sit down for hours with them and work these out. So we do try to couch the particular statute in the words and the expressions of the particular field in which the Act will be used. For instance, in an engineering bill we talk to engineers. We bring them in, discuss it with them and try to use the language that is appropriate in relation to its legal interpretation.

**Mrs. Campbell:** In this case I am referring, Madam Chairman, specifically to the Child Welfare Act. I would wonder in such a case would it ever be thought that you might talk to the judges who have to work with it about the implications of it.

**Mr. Alcombrack:** I don't personally draft the welfare legislation, but the lawyers do work very closely with the people in the department. If it's thought necessary, we

leave it up to them as to whether or not they want to bring anybody else in on the discussions or not. Unless we have a question that they can't answer, then we accept their knowledge in the field.

**Mrs. Campbell:** Madam Chairman, there is another point I should like to make. The same member for Lakeshore was speaking about the codification of law. I must say that when it comes to tax statutes I'm rather happy that we have case law, particularly case law which points out unequivocally that any tax statute has to be clear and unequivocal. I think it helps sometimes if, in fact, the Act is not clear and unequivocal that you can fall back on some case law.

The other point I would make is that matter to which I addressed myself with the Attorney General earlier this evening. At law school, if I can remember back so far, I was under the impression that each statute should stand on its own two feet and that it shouldn't have to be referable back to some other statute. As you know, I raised the question of the proposed amendment to the Legal Aid Bill, because it seems to me that it has to be read with the Law Society Act amendments to give it clarity. If that statute should change, I think it could create chaos in the future. I draw that to your attention, because I think it would be pleasant if you agreed with me that it be changed before it comes further into the House.

**Hon. Mr. Bales:** I will look at it before it comes back into the House.

**Mrs. Campbell:** I, too, would like to say that on the matter of the Charitable Institutions Act—and I have some knowledge of the subject over a fairly long period of time—it is a difficult matter, and I am a lawyer. It is a difficult matter for me to follow the amendments. The cross-references, as I see them—unless I am totally misreading them—don't seem to be standing up. They don't seem to be accurate.

Now, I may be in error, and I am going back at it again. But on top of that, what it purports to do, for example, is to say that a portion of a building may be a charitable institution, and it doesn't require that the whole building be.

But when you read the clause that refers to this, I find it difficult to follow and it seems to me that it could be much more clearly stated than it is and, certainly, if a layman has had some difficulty with it I could thoroughly understand why. And I

would hope that before it comes back again, at least somebody would look at it and perhaps see whether it could be worded more simply to convey the meaning of it.

**Mr. Alcombrack:** I am not familiar with the particular piece of legislation, but I will certainly speak to the lawyer in the office who worked on it.

One of the big problems that we have—and I think as a lawyer you can well understand this—is when we start out drafting some of these provisions, we start out with a very simple section that sets out basically the principle that we are dealing with. Then, of course, you start and think of all the problems, and then you start to add to it. By the time you get finished trying to plug all the loopholes and do everything that the ministry wants to do and so on, it becomes a fairly complicated provision. But I will have them look at that particular piece of legislation.

**Mrs. Campbell:** And if I could speak with the person responsible, I would welcome it. I have notified our caucus that I am not satisfied that I understand the total meaning of it or the total implications. It seems to go beyond what the notes say.

**Mr. Alcombrack:** I'll speak to them about that.

**Mrs. Campbell:** Thank you.

**Madam Chairman:** Thank you, Mrs. Campbell. Does that complete for you?

**Mrs. Campbell:** Yes.

**Madam Chairman:** Mr. Beckett.

**Mr. Beckett:** Thank you, Madam Chairman.

Under the standard accounts classification for this legislative counsel services, there is an item, \$291,200. How many people does this represent?

**Hon. Mr. Bales:** It represents 19.

**Mr. Beckett:** The next question I have on that particular item is—and I have heard concern expressed to the effect that some members are not able to get assistance on the preparation of private bills because of the backlog of work ahead of them—

**Mr. Alcombrack:** You mean private members' bills or private bills?

**Mr. Beckett:** Yes, that's right.

**Mr. Alcombrack:** Private members' bills?

**Mr. Beckett:** Right!

**Mr. Alcombrack:** We have one lawyer, who other than doing some regulations, is working mainly on private members' bills, with an assist where necessary and where we have the manpower available.

Unfortunately private members' bills don't come in as a so-many-a-week sort of thing. Two or three may come in and then, all of a sudden, there will be 15 or 20 of them. So all we can do is put them in the order in which we get them and give service on that basis. We do the best we can.

I think you must remember that some of the bills that come in can be done in an hour. To do a reasonably good job on some bills, however, is going to take two or three weeks. We are not really that familiar with some of the subject matter that these bills deal with, so we have to find out what it's all about before we can even put pencil to paper. And this takes a little time. So that we do the very best we can and we certainly try to give the best service that we can.

**Mr. Beckett:** This was not meant as a criticism, I am really attempting to get the information.

**Mr. Alcombrack:** No, I know it is a problem. We have a problem in the office with it.

**Mr. Beckett:** It has been suggested that there are some members who perhaps put in so many bills at one time that it means that there is no time and space available for other members, just for the reasons that you indicated—a question of when the bills arrive and the subject, perhaps.

**Mr. Alcombrack:** Well, if someone came into the office with a lot of bills all at once, unless they were bills that we could put together in a real hurry we would only do one or two of them and the rest of them would go to the bottom of the pile. That's our practice.

**Mr. Beckett:** In other words, it's not likely that someone might come in with over 20 bills, and could expect to get service on all of them.

**Mr. Alcombrack:** That's right. Sometimes if a member comes in with quite a number of bills, some of them will have been introduced at the other session. What we do then is very simple, we just take the copy of the old bill and bring it up to date for this session and he introduces that with an intro-



duction slip on it. That doesn't take us any time at all.

**Mr. Beckett:** But you would feel that there are perhaps some occasions when members are not able to get the assistance that they would like to get? That's because of the shortage of time, not necessarily—

**Mr. Alcombrack:** In some instances it is true that we just can't produce the bill that the particular member wants right away, for two reasons. One, it may be a bill that takes a considerable amount of time just to understand what is wanted; secondly, because of the volume of work we have at the time. But we certainly do the best we can for everybody.

**Mr. Beckett:** Well, I am not suggesting that you are not doing that, it's just a question of—

**Mr. Alcombrack:** I should say that under the rules of the House—and I don't use this as an excuse at all—we are not required to draft private members' bills, because private members can draft them themselves or have them drafted anywhere.

Our only duty in relation to private members' bills is to make sure that they are in the appropriate form for introduction to the Legislature. But we have always provided this service. Up to five or 10 years ago we had very few private members' bills. It's only been in the last five or six years that we have really been deluged with private members' bills—and it has created a problem.

**Mr. Beckett:** Thank you.

**Madam Chairman:** Mr. Lawlor, you had a question?

**Mr. Lawlor:** Hasn't your staff increased in the last five or 10 years?

**Mr. Alcombrack:** The staff, did you say?

**Mrs. Campbell:** Excuse me, could the member speak up? We're not getting it here.

**Mr. Lawlor:** Pardon?

**Mrs. Campbell:** We're not getting what you're saying here.

**Mr. Lawlor:** To meet that expansion of private members' work, I just wanted to get an idea how many draftsmen and lawyer draftsmen you had, five years ago against how many you have got today.

**Mr. Alcombrack:** Well, out of the 19, we now have complement for eight lawyers. We have seven lawyers on staff. We have one opening at the moment. I am just going from memory now, but I would say five years ago we had six lawyers. So we have one more on staff now, but we have complement for one more that we haven't filled yet.

**Mr. Lawlor:** Yes.

**Hon. Mr. Bales:** You added one this year.

**Mr. Lawlor:** With a very great expansion in work; with a very great expansion in work.

**Mr. Alcombrack:** Yes, in the last five years the expansion in work has just been overwhelming.

**Mr. Lawlor:** Mr. Minister, I would ask you to take their situation into consideration. My friend may have been a bit out of line in doubling it, but I think he should at least add a dollar to their estimates, I don't know.

**Hon. Mr. Bales:** We have—

**Mr. Roy:** You could take a bit out of the legal advisory services.

**Hon. Mr. Bales:** We've added to it somewhat. We have added a complement this year and we will, I hope, be adding a complement again in the next year.

**Mr. Lawlor:** I see.

**Mr. Roy:** For all the advice I got out of it—

**Madam Chairman:** Shall vote 1205 carry?

**Mr. Lawlor:** No, I am still on it, madam, please. I have a series of questions.

It strikes me how anomalous the situation really is—

**Hon. Mr. Bales:** They like you, so they want to help you.

**Mr. Lawlor:** When bills are brought forward to the House, there are these little notes appended to the side so that the more stupid members, perhaps even the bright ones, whoever they may happen to be, don't misunderstand what they read. And quite frankly, the little notes are invaluable, particularly if you have to argue a bill within hours of the thing being brought in or if you are engaged in other work such as this. I might be called up to argue one of the taxation Acts tonight and I just glance at the note and it comes back to me rather quickly. If you read the



section—well, you would be a week trying to remember what it was all about.

The curious rule, the really weird business of the courts, is that we who pass the legislation put the notes in to make doubly sure—to make even minimally sure—that we know what it is all about. Yet this is excluded from the judges; they are not permitted to have the notes.

It goes further than that. With respect to all the work in the House, with respect to the ministerial statements as to the purport and direction, the meaning of the bill or the interpretation of the bill construed by a competent member of the opposition in this particular area—that is all by rule of law deliberately excluded from the courts. This is a weird situation which I think you should some day consider drafting legislation to improve.

This is an ancient rule of British law that nothing but the bare text, not even the side notes are relevant. The bare text of a statute, taken in vacuum apart from the surrounding circumstances, must be clear and adequate enough to a judge, who is not trained in the area that he is mulling over at that particular time in the sense of having background information, a real insight into what legislation is all about—the very background information you need in order to devise the legislation in the first place—this is all left out. I don't know the reason for that. It must be a question of time.

**Mr. Alcombrack:** No, I think the problem is that in some cases the explanatory notes are very difficult to draft so that we don't negate the provision itself, because the side note is an index to give you an indication of what the provision is all about, but you must read the provision to know everything it covers and all the loopholes, for instance. You can't deal with that in an explanatory note. If you try to do that in an explanatory note you are really redrafting the section and therefore, perhaps, negating the section, exactly what you don't want to do.

The note is really like an index to indicate just what the subject matter is that you are dealing with.

**Mr. Lawlor:** My point is, of course, that it would be as equally valuable to others as it is to us to have this rather simplified principle—that is what it comes to—a statement as to what the content of that section is.

Now do you think you can extricate the

meanings of the section itself? In most cases of course you can't, but in a wide range of cases the explanatory note is—if I may put it this way—clearer for the purposes of argumentation in the House than was the actual text before you.

How many times do members actually advert to the text itself in the House, even on clause by clause, in the sense of the nice wording in these things? Not very often, I think. They get the gist of what is in the footnote; they may add to it because they read it carefully having gone through the background law and gone back to the statute and placed one thing in context with another. But at the same time, without the notes I think you would have a good many members dumbfounded most of the time.

It is on the basis of that, I think, the judiciary ought to have access, that they may give whatever weight to it. It must be simply because of:

1. All the jealous division between executive and judiciary on the one side, the insulation theory of hermetically sealed particles—you know the quantum theory came along after that and the particles did manage to get together and didn't really exist in a vacuum in this way.

2. The crazy rule about not turning to the actual debates and not being able to, whether they liked to or not. I suspect on occasion the judge just might sneak a look into a Hansard, but he wouldn't dare breathe that he had performed this surreptitious act—it would be a lack of integrity on the part of the bench in looking into this area.

Something should certainly be done about it. The only excuse I can think of is time.

Everyone knows that on the surface of legislation the pith and substance is not necessarily immediately determinable. And everyone knows on the basis of the "Brandeis Brief" and in matters of that kind the Supreme Court of the United States has departed from that principle to a considerable extent under the exigencies of the social circumstances in the United States.

The judges of that court found that they couldn't operate in a vacuum on the basis of literal wordings. They had to get the social background to make sense of legislation at all—the very thing that we seek to exclude. This breeds a sense of insulation—an isolation between the one branch of government and another—which is no longer viable in the contemporary world and must be overcome.

I don't suppose we will ever live to see it come to pass, but it's the direction in which you ought to be moving in this particular regard.

You say it would maybe take three weeks or so—we have to disinter the background, get the sense of the thing, get the feel of what the legislation is all about, particularly in new areas, like in ecology legislation. Have you got a library of your own that you use?

**Mr. Alcombrack:** We have a basic library. We have all of the Ontario and federal statutes right back.

**Mr. Lawlor:** Yes.

**Mr. Alcombrack:** We have a general reference library—the English language, grammar, a thesaurus and so on.

**Mr. Lawlor:** Fowler's proper English usage—which you never use.

**Mr. Alcombrack:** We use it all the time, at least I do.

**Mr. Lawlor:** Yes—

**Mr. Alcombrack:** Well it's one of the best. We also have—

**Mr. Lawlor:** Do you ever look into Bullfinch?

**Mr. Alcombrack:** We also have the Ontario reports and the federal reports and that's all. Other than that we use the main library.

**Mr. Lawlor:** What I am after here is other jurisdictions.

**Mr. Alcombrack:** Oh, I am sorry, we do have all the statutes of the other jurisdictions.

**Mr. Lawlor:** You do? California?

**Mr. Alcombrack:** No, just in Canada.

**Mr. Lawlor:** Just in Canada?

**Mr. Alcombrack:** We use the reference library for that.

**Mr. Lawlor:** You do?

**Mr. Alcombrack:** Yes.

**Mr. Lawlor:** And you have no compunction about going into a certain area of law in which you happen to have some knowledge that is already extant legislation? You go and take a look at their records and adapt it to the Ontario content?

**Mr. Alcombrack:** It could be. We look at it and often get some good ideas.

**Mr. Lawlor:** Yes. I think that's all I want.

**Madam Chairman:** Mr. Roy.

**Mr. Roy:** Did you draft this Bill 98, the one that we are discussing right now in the House?

**Mr. Alcombrack:** The tax bills are drafted basically by the revenue people, and we vet them more than anything else, because—

**Mr. Roy:** You what?

**Mr. Alcombrack:** We vet them basically because taxation is such a difficult area that only the people who are dealing with the tax statutes—Mr. Lawlor would like that—really know what they are all about. But we do vet them and see if they fit into the pattern and so on.

**Mr. Roy:** So what you are saying is that this Bill 98 was in fact drafted by that department and all you did, as you say, is vet them?

**Mr. Alcombrack:** We just vet the tax bills, yes.

**Mr. Roy:** I am just wondering—as a draftsman yourself—what is meant by one of the last sections of the bill. I don't have the bill before me here but you know the section I am referring to. It says that this bill shall be deemed to come into force on the first day of May, 1973. What is that supposed to mean?

**Mr. Alcombrack:** It means exactly what it says.

**Mr. Roy:** Well, apparently there are some problems there. The point I am getting at is, did you mean that bill could be enforced before it was passed or did you mean that bill to be enforced retroactively?

**Mr. Alcombrack:** You can only make a bill retroactive. You can't do anything else.

**Mr. Roy:** Retroactive. So that the opinion—you weren't here when I gave an opinion earlier on. I would seem to be right on that.

**Mr. Alcombrack:** I don't give any official opinions in my office. It's up to the Attorney General to give any official opinions.

**Mr. Roy:** Well, as you saw, I didn't have much success there. But are there any regulations or anything drafted pursuant to that? Do you draft the regulations?



**Mr. Alcombrack:** Well, some of the lawyers in the office do; I don't particularly. We have a registrar of regulations and two lawyers who do the regulation work. I haven't seen them if there are any, but he would see them.

**Mr. Roy:** So you are not in a position to say whether there are or not regulations pursuant to that?

**Mr. Alcombrack:** No.

**Mr. Roy:** Let me go to another problem here. Do you say that from the purely technical point of view you don't have to draft private members' bills?

**Mr. Alcombrack:** Under the rules of the House.

**Mr. Roy:** Under the rules of the House?

**Mr. Alcombrack:** Under the rules of the House we are required to deal with the public bills of the government and private bills that used to be on petition but are now on application.

**Mr. Roy:** Yes.

**Mr. Alcombrack:** We are not required by the rules to draft private members' public bills. We never have been.

**Mr. Roy:** Yes, but I mean this is not something that you have any intention of discontinuing.

**Mr. Alcombrack:** No, we give the very best service. We increased our complement by one this year. We haven't another lawyer yet, but we have increased our complement just to take care of that problem.

**Mr. Roy:** Who is the fellow doing it now? Is it Williams?

**Mr. Alcombrack:** Mr. Williams, yes. Frank Williams.

**Mr. Roy:** Because of the fact that private members' bills never see the light of day really, do you say "We will put our junior man on this. It's not that important that it be drafted with the usual care"?

**Hon. Mr. Bales:** May I say, with respect, I don't think that is a proper question. It is not a fair question to them, because I know that they do devote care and attention to all of those bills.

I have a number of private members who come to me and say, "Can't you speed up my particular bill?" I've spoken to them at

times and Mr. Alcombrack went into this in fair detail. Sometimes if it's a bill covering a different type of subject they have to do a fair amount of research before they even, as he used the expression, "put pencil to paper."

**Mr. Roy:** I wasn't suggesting that.

**Hon. Mr. Bales:** I know you weren't, Mr. Roy. Having worked with them on this matter over a period of time, I do know that they give care and attention to all those bills.

**Mr. Roy:** Let me discuss this point further with you about what your policy is. I'm sure that everybody is very cognizant and everybody is very diligent in that office. But should you be, though, when you are drafting private members' bills, considering what happens to them? You talk about spending three weeks drafting a private member's bill.

**Mr. Alcombrack:** That wouldn't normally be three weeks solid, but it would be on and off for three weeks, with a goodly number of hours expended on it during the three-week period. We try to do the very best that we can for the private members with the time that we have. Normally when private members bring a bill—say, bring it in on Monday—they ask, "Can we have it on Wednesday?"

**Mr. Roy:** Yes.

**Mr. Alcombrack:** We look at it and see how much time we think it will take. If it's a very short bill that we can do in a few hours, we may say, "Well sure, we'll fit it in between other work." Or we look at it and we say, "This is going to take a little bit of time. In any event, we have 12 other private members' bills here. We really can't give you a date until we start to draft these others and see where we are going." We do the best we can on it; that's all.

**Mr. Roy:** Do you have difficulty hiring lawyers in that field? I know it's not easy.

**Mr. Alcombrack:** There are very few lawyers who are interested in drafting, because it is a very time-consuming, specific, thankless sort of a job. That's what it is. There are very, very few lawyers who are interested. Sometimes even those who are interested just don't have the aptitude for it. We have an opening right now, as I said. Our complement was increased on April 1, but we haven't found anybody yet. I've interviewed a lot of people.



**Mr. Roy:** As a matter of interest, what do you pay someone starting out of Osgoode Hall?

**Mr. Alcombrack:** What is our pay scale; \$10,000 and something?

**Mr. Callaghan:** Around \$11,000.

**Mr. Alcombrack:** It depends on their experience.

**Mr. Roy:** No, I am talking about someone coming out of Osgoode Hall.

**Mr. Callaghan:** You're just talking about a lawyer starting off in the ministry?

**Mr. Roy:** Yes.

**Mr. Callaghan:** It would be around \$11,000, but it is subject to variation. If he is an honours student, we can increase it \$1,000; if he has articulated in the ministry or has experience in the ministry, we can increase it over the rate.

**Mr. Roy:** So there is some leeway there, a couple of thousand dollars. How does that compare, let's say, with the starting salary of a young Crown attorney?

**Mr. Callaghan:** They are hired as legal officers Class 1 in the same range, the same classification.

**Mr. Roy:** I see. I don't know if it is still the case, but in my day—and that's not that long ago—very few schools gave courses in legislative drafting. Doesn't the University of Ottawa have something along that line?

**Mr. Alcombrack:** Yes, Elmer Driedger, the former deputy minister in Ottawa, has a course at the University of Ottawa which was started by the federal government and subsidized by them. I am not sure exactly of the numbers, but I don't think they've had too much success in enrolling students in Canada. The only people, other than a few exceptions, are people from the so-called underdeveloped countries. That's about it, as far as I understand it.

**Mr. Lawlor:** They had eight students, four of whom were from other countries.

**Mr. Roy:** At the University of Ottawa?

**Mr. Lawlor:** Yes.

**Mr. Roy:** Since we are getting more and more law students, and the Law Society is getting concerned about the fact that it doesn't know where they are going to go,

would the Attorney General agree that legislative draftsmanship is one of the areas in which we might interest more of these people?

**Hon. Mr. Bales:** In this way, that we had a very fine response recently to an advertisement that was placed for new legal officers in the government. We had a large number of applicants.

**Mr. Roy:** Yes, but legal officers—

**Hon. Mr. Bales:** They were not generally for this but they were for a variety of positions within the legal service of the government.

**Mr. Roy:** Very frankly, I must say that I could well appreciate that this would be a very thankless job. It's not exactly my bag to sit down and start drafting bills.

**Hon. Mr. Bales:** We're all different, though, aren't we?

**Mr. Roy:** Yes. In any event, I have another question I wanted to ask you. Considering that you get these private bills in bunches, so to speak, can we submit something when the House is not sitting?

**Mr. Alcombrack:** Sure. We would be glad to have them during that period.

**Mr. Roy:** It would be better, would it?

**Mr. Alcombrack:** We could spread them out a little better that way, yes.

**Mrs. Campbell:** Madam Chairman, I have one question which arose out of what my colleague asked; and it concerns this whole matter of regulations.

I wonder if the Attorney General would deem it appropriate to give us his opinion as to the effect of what appears to be in certain areas almost government by regulations? Very often the regulations have a very significant effect on the legislation itself, yet we don't have an opportunity to debate them.

Has there been any real thought on the part of the Attorney General in this area? I don't wish to embarrass him on a matter that is government policy, but I'm thinking of the nursing homes, for instance. That was one of the really bad ones where the regulations went so far and had such a serious effect, whereas the legislation itself may well have seemed quite appropriate. Have you given any thought to it? Would you be prepared to?

**Hon. Mr. Bales:** We have changed our arrangement in reference to regulations. Of

course, they are published but not ahead of time.

We have now established a regulations committee of which I am chairman. We meet every week and all the regulations going before the cabinet are dealt with in detail at that committee with representatives of the ministry attending, if necessary. There are some regulations that become rather routine and you don't need anyone there, but for any regulation of any complexity at all either the minister or some of his senior officials are there to deal with those regulations. We go through them in great detail.

**Mrs. Campbell:** Who sits on that committee?

**Hon. Mr. Bales:** I am chairman of it and there are members who sit on it.

**Mrs. Campbell:** Of all parties?

**Hon. Mr. Bales:** No, not of all parties.

**Mrs. Campbell:** Well, then, this isn't helpful, surely, in the House?

**Hon. Mr. Bales:** Cabinet, of course, has to pass the regulations because they have to be adopted by cabinet. They go from the committee to cabinet and cabinet deals with them. They have to be dealt with that way because they are really the enactment of cabinet. But they have a very detailed study now that they did not formerly have.

**Mrs. Campbell:** It seems to me, Madam Chairman, that when the regulations, as in the case that I cited—

**Hon. Mr. Bales:** May I just say one other thing, perhaps, to help you? There are times, in certain types of bills, when we bring forward the regulations with the bill. That's done particularly—perhaps in the kind of case that you are referring to—when occasionally the regulations are more meaningful than the bill itself. We do, in some of those cases, endeavour to bring forward the regulations with the bill. That is a decision of cabinet.

**Mrs. Campbell:** I take it that you're not prepared really to make a statement to me as to what you feel about this. I feel very strongly that the regulations which seem to affect rights to a very significant degree ought sometime to be debated.

**Mr. Lawlor:** May I interject, Madam Chairman?

**Hon. Mr. Bales:** Can I just—

**Mr. Lawlor:** There is a regulations committee of the House.

**Mrs. Campbell:** Yes, but it doesn't have the chance to debate them, as I understand it. All it can do is to decide whether or not the regulations are covered in the bill's provisions.

**Mr. Lawlor:** You are perfectly right and it has ceased to meet, I understand.

**Mrs. Campbell:** All right, but that's not what I was talking about.

**Mr. Lawlor:** Maybe you could get him to do something about it.

**Mrs. Campbell:** I wanted to know about a debate. If, Madam Chairman, the minister is not prepared to answer the question now, could I ask whether he would—

**Hon. Mr. Bales:** Just a minute, what is your question?

**Mrs. Campbell:** What is your position as to this procedure with reference to regulations? Do you not feel that, when they are as significant as many of them are and have a very serious effect on the community, they should also be debatable?

**Hon. Mr. Bales:** No, I don't think we can go that far from a simple procedure of passing and dealing with the business of government. Regulations are passed year around, not necessarily only when the House is sitting. You have to proceed with the business of government week in and week out because the Legislature deals with the legislation and directs, in certain instances, that regulations be prepared and passed and it's done.

I think that it is an important thing that the committee on regulations should sit and that regulations should be produced for them. I think the step we have now taken to have a separate committee, wherein you deal with those matters in detail separate and apart from the cabinet, is a good thing, because then they are dealt with twice.

**Mrs. Campbell:** Would you then feel that to enlarge that to permit opposition members who, after all, represent people as well as the government side, should have the opportunity to sit on such a committee?

**Hon. Mr. Bales:** Well, it is a suggestion. We have established the committee only within the last six months. It is a situation which I am quite willing to consider.

**Mrs. Campbell:** Thank you.

**Madam Chairman:** Shall vote 1205 carry?

**Mr. Lawlor:** One further question, if I may.

**Mr. Alcombrack:** are you aware of the article of Harold Greer in the Windsor Star—and he writes for many other publications—back in January 1972? The article contrasts and compares the civil code of European countries as to the way they draft legislation over against the common law, and basically says that the civil law countries draft wide, comprehensive, principled legislation—

**Mr. Alcombrack:** It is a matter of philosophy, again.

**Mr. Lawlor:** —and that here we try to draft it in detail.

**Mr. Alcombrack:** That is really what I was getting at in my opening remarks on it.

**Mr. Lawlor:** You think it is true, what he says?

**Mr. Alcombrack:** Oh, I think so, yes.

**Mr. Lawlor:** I see. I had misgivings about it.

**Madam Chairman:** Shall 1205 carry?

Vote 1205 agreed to.

On vote 1206:

**Madam Chairman:** Page 20, vote 1206, courts administration programme. Item 1, programme administration.

**Mr. B. Newman (Windsor-Walkerville):** Madam Chairman, may I ask of the minister if this is the vote under which I can possibly discuss the recommendations of the grand jury's report concerning the county of Essex?

**Hon. Mr. Bales:** In reference to what, Mr. Newman?

**Mr. B. Newman:** I am referring to the county courthouse in the community itself.

**Hon. Mr. Bales:** Oh, yes.

**Mr. B. Newman:** Recommendations have come down from the grand jury—

**Madam Chairman:** That is in item 3.

**Mr. B. Newman:** Item 3? All right, then.

**Madam Chairman:** Shall item 1 carry?

**Mr. Lawlor:** On item 1, just the usual yearly diurnal complaint. I wanted to elicit a response to keep the Attorney General

alienated and gleaming in the darkness, from getting too obfuscated. The question, mainly, of the appointment of judges of the courts, the extrajudicial capacity which they suffer. Despite the very strong strictures of Mr. McRuer in this particular regard as to their sticking to their lasts, and not ranging off, nothing has been done whatsoever with respect to the police commission, which is—

**Hon. Mr. Bales:** Mr. Lawlor, could I answer you in a word? I am a firm advocate of judges being removed from the police commissions.

**Mr. Lawlor:** That is an incredible admission. And now, when do we expect to see the dawn?

**Hon. Mr. Bales:** As soon as it becomes government policy and I can convince my colleagues, and some of them are convinced, I would tell you.

**Mr. Lawlor:** It is only the Justice ministry boys who you really have to get to.

**Hon. Mr. Bales:** No, no, it is others. But I have said so publicly and I say so here. I think there should be more lay personnel.

**Mr. Lawlor:** Do you think that this is applicable, perhaps not to the same extent, but with respect to arbitrations? Labour arbitrations, and others?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** In other words, your basic thrust is to see the judges stick to the courts.

**Hon. Mr. Bales:** The judges are for judging.

**Mr. Lawlor:** Right.

Item 1 carried.

**Madam Chairman:** Vote 1206, item 2, Supreme Court of Ontario.

**Mrs. Campbell:** Madam Chairman, I don't know whether this is the point at which I raise my questions.

**Madam Chairman:** All matters relating to the operations of the Supreme Court of Ontario may be dealt with under this item.

**Mrs. Campbell:** Very well. The Supreme Court of Ontario—the other was the surrogate court—and the provincial courts have jurisdiction in certain areas. Are we awaiting the whole family law bit in order to try to correct the problem, for instance, of custody matters?



Is there any way that consideration could be given to defining a little more clearly the question of custody vis-à-vis wardship, because you get into problems of almost overlapping areas here?

Thirdly, is there any way in which there could be legislation to provide that where a judge is dealing with a matter of custody that he should see the child if the child is, in fact, of a given age? Now, I am thinking, say, from nine years old up to 16. Because I think these cases are really creating difficulties in all of the courts.

Mr. Callaghan: All levels?

Mrs. Campbell: I would think so, because people are getting bits and pieces of their problems tested in almost every court and it's costly to them; it must be costly to Legal Aid. It doesn't really satisfy anybody in the determination of the problem. I wondered what your thinking was. I suppose as far as custody, you are going to tell me you are waiting for the Law Reform Commission? No!

Mr. Callaghan: No.

Mrs. Campbell: Good.

Mr. Callaghan: If I may make a comment, the fundamental issue that faces us here is really the overlapping jurisdiction, federally and provincially, in the three courts.

Mrs. Campbell: I am aware of that.

Mr. Callaghan: And I think you were probably party to the Family Relations Act that was prepared by the family court which recommended a unitary system for dealing with family problems.

We have got that under serious consideration and we are making representations to Ottawa on that to see if something can be worked out in that line, because a patchwork handling of this problem will probably create more difficulties in the courts than we have now. That's not a very easy thing to work out, but the concept of a unified court for family relations is something that we are seriously thinking about.

Mrs. Campbell: I buy that, but then is it not within your jurisdiction—notwithstanding these are federally appointed judges in these courts—to spell out some procedural situations by which they deal with this?

Mr. Callaghan: Well, that depends; that's a pretty broad question. I really—

Mrs. Campbell: I mentioned as an example that a judge, or particularly a master dealing in an interim fashion with a matter of custody, would perforce see a child if a child—I'm putting out a figure—nine years or up. In my experience a nine-year-old can be pretty incisive about his position and often gives a better picture of problems than you get from any written report.

Mr. Callaghan: Well, we've looked at the question of handling it procedurally provincially, and it's our view that there is a constitutional problem involving section 96 because of the appointing function given the federal government under that section and how it has been interpreted by the courts. We feel that there is a strong chance that any attempt to deal with it procedurally in that way would be construed as removing jurisdiction from the superior courts and the county courts and putting it on non-federal appointees, i.e., the masters. That was one of the matters we did look at; it's one area where we feel the constitutional issue arises. The whole area is so hamstrung with the interrelationship of various jurisdictions—

Mrs. Campbell: Yes, I'm aware of that.

Mr. Callaghan: It is a reform which we cannot do alone. We have to have co-operation.

Mrs. Campbell: Even procedurally.

My other question is whether there is any way in which you could look at the legislation of the province relating to child welfare matters and wardship to give better direction.

Sometimes you'll find that you're in the middle of a wardship hearing, and at the same time parties are up in another court dealing with custody. Under our law, the provincial court judge has primary responsibility in wardship, but it's a very confused area for the wardship judge; you work through it, but you're not always sure that you're doing it the right way.

Mr. Callaghan: That's an area which we can look at procedurally. We would have to work with the Ministry of Community and Social Services. The problem we run into there is that no matter how well we define our procedures, unless some steps are made in reference to the law relating to custody, our procedures can be overridden.

Mrs. Campbell: Yes, of course.

Mr. Callaghan: We again fall between the two stools. But certainly that is one area

where we could take a hard look at whether or not there is a way of dovetailing the procedures. Really, I think that is what you're suggesting, that they should be dovetailed so they work together rather than apart.

**Mrs. Campbell:** The other question I have is whether there is any thought of looking at the procedures for appeal from the provincial courts and family division? Surely there must be some way that you do not start de novo. Surely there should be some consideration given to the work that has been done in a court where the child or children are there and seen. These matters concern me greatly.

**Mr. Callaghan:** The question of the trial de novo from the provincial court is one of the matters—I hate to come back to the Criminal Code—

**Mrs. Campbell:** You always do.

**Mr. Callaghan:** —but trials de novo emanate from the Criminal Code. That's where the concept was developed and the appeal procedures have just been incorporated in our legislation. The question of the manner in which a trial de novo should be handled is one of those matters which we have referred to the federal Minister of Justice. We would like to have a discussion on it. It's one of the procedures which some people feel is redundant, or could be handled in a different way; i.e., if there is to be an appeal, it should be an appeal on the record but not a trial de novo, particularly in family matters.

This is one of the problems we have here. The provincial court not only has the family division, it has criminal jurisdiction as well as the other jurisdictions, and it would be hard to establish different appeal procedures when you wear different hats. The idea is to try, if we can, to get a uniform appeal procedure that would operate for that court as well as the other divisions of the provincial court. But that is one matter that is really under consideration.

**Mrs. Campbell:** Can you tell me, with reference to these procedures, just why and in what areas the federal Law Reform Commission is functioning, vis-à-vis family, because that—you don't know?

**Mr. Callaghan:** I'm afraid I don't. I am aware—

**Mrs. Campbell:** They are asking us, or were asking us, to give opinions on a wide variety of things which do not seem to be constitutionally within their jurisdiction.

**Mr. Callaghan:** There was a definite issue being taken at this time as to what jurisdiction is ancillary to the jurisdiction over divorce. The Law Reform Commission of Canada I think is looking at many areas which may not be constitutionally within divorce jurisdiction, but it is looking at it from the point of view of a united approach to the problem of the family court and family relations. I think that is the reason you get the questionnaire covering areas which would properly be provincial, but as to the actual manner in which they propose to handle the problem, I have no idea. We haven't really received any of their working papers on that yet.

**Mrs. Campbell:** You should be able to get them from your provincial judge sitting on that committee.

**Madam Chairman:** Shall item 2 carry?

**Mr. Lawlor:** No, Madam Chairman.

**Mr. T. A. Wardle (Beaches-Woodbine):** Are we not going to adjourn to go upstairs?

**Madam Chairman:** Yes. Shall we adjourn to go upstairs and vote please, and we will reconvene tomorrow after the question period, which will be approximately 11 o'clock.

The committee adjourned at 10:37 o'clock, p.m.

## CONTENTS

Thursday, May 3, 1973

Crown legal services programme, concluded .....	S-153
Legislative counsel services programme .....	S-163
Courts administration programme .....	S-179
Adjournment .....	S-181







# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Tuesday, May 8, 1973**

**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 8, 1973

The committee met at 3:18 o'clock, p.m. in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1206:

**Madam Chairman:** The meeting will come to order.

The substitutes I wish to announce are Mr. Gilbertson for Mr. Eaton; Mr. Carruthers for Mr. Walker; Mr. Lawlor for Mr. Stokes; and Mr. Renwick for Mr. Deans.

I believe we were on page J20, vote 1206, item 3.

Mr. Lawlor says that he has points of order.

**Mr. P. D. Lawlor (Lakeshore):** Yes, Madam Chairman, a couple of points. Over the weekend I have had a number of people approach me as to the possibility, particularly on the next vote and having to do with the Ontario Municipal Board, with a view to asking this committee and yourself, Madam Chairman, as to whether you would consider permitting a delegation to appear before us.

**Madam Chairman:** I don't believe so. This is the same as the House estimates.

**Mr. Lawlor:** I won't argue with you, Madam Chairman, that was what I anticipated—I said I would ask.

**Madam Chairman:** As a matter of fact, if I may interject; I asked the Clerk about that a year ago when I was a very new member and new chairman, and I asked him again this year. A committee of supply such as this one is the same as the House in committee, and it does not receive delegations.

**Mr. Lawlor:** It is not like other committees of the House which receive delegations?

**Madam Chairman:** No.

**Mr. Lawlor:** Very well.

The second point I have to raise has to do with the next vote and is in anticipation of it; there are a number of boards and commissions involved, Madam Chairman. In the case of some of these boards and commissions, and I don't see why not all of them—I wonder if it is possible—because some of these are new to us, too, in this particular ministry—to have the chairmen of those boards appear here. I am particularly interested again personally in the Ontario Municipal Board, as to the new directions that board has taken and as to the concerted policy of the board, and I would like to have Mr. Palmer appear before us. It has been the practice of this committee in the past to have individuals responsible for designated portfolios or jobs, to appear. We haven't done that thus far in this term, and I wonder, Madam Chairman, if you would give consideration to that?

**Madam Chairman:** I will give it consideration, but perhaps I should ask the minister for his comment.

**Hon. D. A. Bales (Attorney General):** Madam Chairman, it was my practice last year, and I think it is a reasonable one, that I deal with the particular matters of each of the boards that are before the committee. I don't really feel that the chairman in each case should be here. In fact, I feel they should not be here to deal with the actual dollars of their estimates, because that is what we are dealing with.

If there are any questions, I shall be pleased to handle them. I am sure the member appreciates that I have administrative responsibility for all of these boards and deal with them in that way. Mr. Palmer, of course, has recently gone to the Ontario Municipal Board; but the membership other than Mr. Palmer is the same. There have been no changes in the members of the board other than his own. For that reason, Madam Chairman, I feel we can deal with the particulars of each board through my staff and myself.

**Mr. Lawlor:** Well, with your permission, Madam Chairman, I will just take a moment of argumentation in that regard: I really don't feel that it is acceptable to us, as critics and members of the opposition, in this regard.



Mr. Wishart made it a policy in his term in office—he had a perfect right not to adopt that particular precedent—but he wanted to make available various individuals, particularly upon request of the members.

I remember Alan Leal as a case in point at that time. I think he appeared several times, and then one year he was out of town and was unable to appear—and that is what the reports of this committee said last year. They were your words—I can show them in Hansard, saying: “I’m sorry, we can’t do it, because Alan is not available this year.” The implication was that you didn’t have any particular objection or reserve about having people responsible for portfolios, or for particular tasks, to give us an inside view.

Now, true, you can give a fairly good résumé, but direct from the horse’s mouth is a different thing. And we are not here, Mr. Minister, if I may take exception to what you say, to consider the dollar estimates—as well you know, we are here to discuss policy and what they are doing—

**Hon. Mr. Bales:** Well, I would be glad to try and answer that.

**Mr. Lawlor:** Okay!

**Mr. J. A. Renwick (Riverdale):** Madam Chairman, I would like to associate myself with the remarks of my colleague from Lakeshore because it does seem to me that, with the greatest respect to the competence of the minister and his close advisers who are available to deal with other estimates, there are essential matters related to the policies of those boards that cannot possibly be within the knowledge and purview of your advisers.

The mere fact that questions can be asked and referred to those boards for answer at some time, seems to me not to be within the intent of our obligation here to deal with those estimates.

I can’t conceive how in any way the chairmen of the Municipal Board, the compensation for crimes group or the Criminal Injuries Compensation Board, the Land Compensation Board, the Board of Negotiation or the Assessment Review Court—how they could in any way be prejudiced by coming here to answer questions with respect to their boards, which apart from one or two of them, are relatively new; where important and serious questions have been raised. While it is true in the remote sense the minister is responsible for the boards, it does not give us the opportunity to intelligently explore the work of

those boards and the way in which they are accomplishing their purposes.

**Hon. Mr. Bales:** Madam Chairman, I appreciate the points that are being made by the hon. member. If these estimates were in the House, all replies would come through me. When I was in the Ministry of Labour, I traditionally conducted my estimates with usually only the deputy present, and had a multitude of boards there. All other replies then come through the minister.

In this estimate committee it is a more informal arrangement and I think a rather helpful one. From my standpoint, I have received some good opinions and suggestions from the various members. More than that, from time to time before the standing committees of this House, the boards like the OMB, the Workmen’s Compensation Board and others do appear.

I think that sometimes on those occasions more than just the chairman appeared. Then they would have a discussion in reference to the board itself. I have no objection to that kind of situation, but I think that this is an area analogous to the situation in the House, and the chairmen and others would not participate there.

You suggested that Mr. Wishart appeared in this committee; to my knowledge he has never appeared here on this kind of thing.

**Mr. Lawlor:** He hasn’t been there long enough, has he?

**Hon. Mr. Bales:** No, well—nor his predecessors.

**Mr. Lawlor:** One final word. It seems the beauty of this kind of informal proceeding, which is far more give-and-take-ish than the House procedures, would open up that avenue. I would ask you to give that some thought for future years. There are certain people whom it has been extremely useful to have here and who clued us in rather quickly and gave us a sense of what they were doing. I think they actually saved the time of the delegation.

**Hon. Mr. Bales:** Madam Chairman, I am quite willing to consider it for the future.

**Mr. Lawlor:** Thank you very much.

**Madam Chairman:** Well, Mr. Minister and gentlemen—

**Mr. Renwick:** I would just say, Madam Chairman, we would also like to see Mr. Wishart and Mr. Yaeger here.

**Madam Chairman:** We are on vote 1206, item 3.

Mr. Newman has indicated he wishes to speak. Are there other speakers for this item?

**Mr. Renwick:** Have we finished item 2?

**Madam Chairman:** Yes.

**An hon. member:** I didn't realize we had finished the Supreme Court.

**Mr. B. Newman** (Windsor-Walkerville): Am I all set then, Madam Chairman?

**Madam Chairman:** Go ahead.

**Mr. B. Newman:** Right, Madam Chairman, I wanted to bring the attention of the minister, as I did just briefly the last day we met, to the grand jurors' report. I just wondered what happened to this report? Back on Jan. 18 of this year, Mrs. Helena Nelson, the foreman of the grand jury, submitted a report to the local sheriff who in turn, I would assume, submitted it to the Attorney General's office. The report concerned, the need for additions to facilities at the county courthouse.

The comments of the grand jury are extremely important, because if you don't act on them, justice delayed is justice denied. If you don't attempt to carry out some of the recommendations of the grand jury's report, then really there is no need for having a grand jury.

The report makes mention—

**Mr. Lawlor:** How are we going to get rid of them?

**Mr. B. Newman:** The report here makes mention, Madam Chairman, that the courthouse facilities were inadequate and that the space presently available was insufficient for prompt and proper administration of justice. On the tour, the grand jury observed that the jurors' lounge was being used as a temporary courtroom and, as a result, jurors were compelled to stand in the public lobby whilst waiting to be called. In addition, we were informed that on the appointment of a new judge, there would be available no chambers or office space for his use. This statement seems to be well-founded.

The grand jury also interviewed Judge Sidney L. Clunis, who concurred with the conclusion reached in the paragraph that I just read, and who raised the question also of jurors' pay. For those who continue to be paid by their employers, this problem is of no great moment. However, there are those

who suffer continuing financial hardship as a result of jury service and the sum of \$10 per day is somewhat inadequate recompense.

There were these two conclusions of the grand jury: First, that an additional floor be added to the court-house. It is felt by the officials of the court that this would solve all foreseeable space problems. And second, that an additional sum of money should be given to those who suffer financial hardship as a result of jury service.

These recommendations were not only made on Jan. 18 but also were followed up on another grand jury report of April 11 this year. I wanted to ask what action does the minister contemplate taking, first on the additional floor to the court-house, and second in terms of financial recompense to those who serve on juries?

**Hon. Mr. Bales:** Madam Chairman, the grand jury reports are submitted to my ministry and the various recommendations are analysed there. We then assess those changes and improvements in the various courts that can be made and they are referred to Government Services.

We have a close liaison through a joint committee of the two wherein we deal with these changes in the various court facilities. We have noted the requirements there. I haven't been to Windsor as yet. I am working my way around the province because I want to see all of them. But I have to say, Mr. Newman, there are others that are in a more pressing situation than that in Windsor. I think that some arrangements were made for the judge there.

In reference to the pay for jurors, you wrote to me in reference to one particular case—

**Mr. B. Newman:** That's right.

**Hon. Mr. Bales:** —and I replied to you. I saw that you submitted that to the newspaper, which was just fine. I believe the jurors' pay should be increased. We recommended it, but it was one of those areas that had to be set over because of restrictions in our budgets. I am very hopeful to increase the pay to jurors.

**Mr. B. Newman:** May I ask of the minister then when he is hopeful to have a change?

**Hon. Mr. Bales:** It will be again brought up in my budgetary suggestions, recommendations and provisions for next year. It has to be approved.



**Mr. B. Newman:** In other words, there is no chance of any change in the present fiscal year?

**Hon. Mr. Bales:** Not in this fiscal year. It was in our budget, but it was one of those items that did not remain.

**Mr. B. Newman:** Well, I hope that the minister understands the hardship that some jurors are put to, especially those who are practically welfare cases.

**Hon. Mr. Bales:** I am very much in sympathy. I assure you this was in my budget and I want it increased. It's been some time and I think it needs to be done.

May I just point out one thing in reference to the grand juries, just for information? This principle was in the Speech from the Throne, but I just want to mention it here.

While we are going to submit legislation doing away with the grand jury, we will be establishing another public body to look at the public buildings. We think that that is a very important function presently carried out by the grand jury and it should be from among the public, not from just people within the government staff. So there will be a public board established in the various parts of the province who will be reviewing the public buildings.

**Mr. B. Newman:** May I ask the minister if he is considering the use of supplementary estimates in an attempt to make sure that the jurors are paid a half decent stipend for their public service?

**Hon. Mr. Bales:** Well, Mr. Newman, it is very early in the year to contemplate that.

**Mr. B. Newman:** If you could not include it in your budget now, then maybe, Mr. Minister, I had better put the seed in your mind at this present moment so that we don't find—

**Hon. Mr. Bales:** By all means.

**Mr. B. Newman:** —ourselves asking for this next year.

**Hon. Mr. Bales:** I am hopeful I'll be able to tell you that it is going to be there.

**Mr. B. Newman:** I don't want to hear it next year. I want to hear it this year, Mr. Minister.

**Hon. Mr. Bales:** Well, I haven't got the money this year.

**Mr. B. Newman:** How substantial an expenditure are the jurors to the province? How much money is involved?

**Hon. Mr. Bales:** It is well over \$1 million.

**Mr. B. Newman:** Well over \$1 million?

**Hon. Mr. Bales:** That is the increase. That's the increase only.

**Mr. B. Newman:** The increase would be well over \$1 million?

**Hon. Mr. Bales:** Yes.

**Mr. B. Newman:** I can understand some concern there, but even then when we vote \$50 million to OHIP, \$1 million to cover jurors' stipend certainly isn't asking for too much, particularly when we see the hardship cases—especially the one that I brought to your attention, Mr. Minister. The lad was really being punished by his employer simply because he was performing a public service.

**Hon. Mr. Bales:** This is like speaking to the converted, Mr. Newman.

**Mr. B. Newman:** That might be true. That's like attending a political meeting then, is that it?

**Hon. Mr. Bales:** Not really, no. One can be converted in many spheres other than politics.

**Mr. B. Newman:** May I make the minister aware in his attempt to provide facilities throughout the province that he not necessarily take into consideration the age of buildings, because that shouldn't be the criterion?

**Hon. Mr. Bales:** I don't think we necessarily are.

**Mr. B. Newman:** It should be the use to which buildings are being put. If they are overburdened, it's far more important to be adding to a fairly good facility now, rather than replacing one that may be old in years but performing the functions well.

**Hon. Mr. Bales:** It's the adequacy that I am concerned with. And that doesn't mean always scrapping what's there and starting over again.

**Mr. B. Newman:** Next year when we come back here we hope to see included in your budget an addition to the Essex county courthouse. Before that budget we also hope to see supplementary estimates to take care of jurors



and witnesses. We have your undertaking, then?

**Hon. Mr. Bales:** No, you have not my undertaking.

**Mr. B. Newman:** You're a hard man to deal with.

**Hon. Mr. Bales:** What I told you was that I am most sympathetic, particularly to the jurors' increases. The other matter will be carefully assessed.

**Mr. B. Newman:** Well, sympathy doesn't put bread on the table. There are real hard-ship cases. Maybe there should be a contingency fund in the department to take care of such a thing.

**Hon. Mr. Bales:** Sympathy didn't put the figures in my preliminary budget either. It didn't prompt me about the need to fight for that, which I did.

**Mr. B. Newman:** You didn't fight hard enough if you couldn't convince your colleagues.

**Hon. Mr. Bales:** Mr. Newman, there is a number of priorities, and we have been under severe strictures in these matters this year.

**Mr. B. Newman:** When we are talking about jurors' fees, we are talking only of \$1 million increase; so that is not as substantial as a lot of the other expenditures in your department. I'll leave it at that, Madam Chairman. Thank you.

**Madam Chairman:** Thank you. Mr. Renwick is next.

**Mr. Renwick:** Mr. Minister, I assume I can deal with the whole of the vote. I just have half a dozen matters.

**Madam Chairman:** We are on item 3.

**Mr. Renwick:** Yes. The minister in his statement referred to three advisory groups, one of which was for the county courts and one for the provincial courts. He indicated they were made up of experienced people drawn from these courts, together with senior officers of the ministry. On this whole question of management information control systems, I wonder whether the minister would tell us who are on the advisory committees for the county and district courts and for the small claims courts.

**Hon. Mr. Bales:** Mr. Marshall Pollock has set it up. The registrar is the senior official.

We use the knowledgeable people within those areas.

**Mr. Renwick:** I drew the inference that there was, in fact, a specific advisory committee with specific people.

**Hon. Mr. Bales:** Yes, I think I can get that for you; I will be glad to advise you.

**Mr. Renwick:** Perhaps you would get it for me, because I am interested. I am not asking that you necessarily get it during the course of the estimates.

**Hon. Mr. Bales:** Maybe if we can have it here, we will.

**Mr. Renwick:** Just as long as I can have that information. The reason I am concerned about it is that I'd like to have some up-to-date information, particularly with respect to the small claims courts. The last communication I had from your predecessor indicated that as of July 14, 1971, which is something less than two years ago, there was the following backlog of cases in the small claims courts in Metropolitan Toronto: First court, 974; eighth court, 530; ninth court, 942; 11th court, 175, and 12th court, 550. I wonder whether the minister could give me up-to-date information on that.

**Hon. Mr. Bales:** Just bear with us, Mr. Renwick, and we will do our best.

**Mr. Renwick:** Yes.

**Hon. Mr. Bales:** We are about three months behind. Perhaps I could give you the number of cases that were set down. These figures are for 1972: York, court No. 1, 9,433.

**Mr. Renwick:** How many?

**Hon. Mr. Bales:** There were 9,433. For No. 2 court, which is Markham, 727; third court, Richmond Hill, 1,348; fourth court, Newmarket, 1,222; fifth court, Sutton West, 407; seventh court, Woodbridge, 136; Toronto—that is Dundas West—7,667; Scarborough, ninth court, 10,506; No. 11 court, Mimico, 3,739; and Willowdale, No. 12, 4,536.

**Mr. Renwick:** Can you give me any indication of the classification of the type of case which is before the courts, using either the regional municipality of York or Metropolitan Toronto? Is there any breakdown by way of classification, of type of case?

**Hon. Mr. Bales:** No, I don't have that. Mostly they are collections.

**Mr. Renwick:** The greater portion of it is collections?

**Hon. Mr. Bales:** Oh, the very large proportion is collections.

**Mr. Renwick:** The kind of information which I want—I am not asking for it if it is not now available, but asking that it be available for a subsequent year—is how many corporations are engaged in taking individuals to court in the small claims court to collect these small claims. In other words, to what extent is the small claim court system solely a debt-collecting mechanism for corporations or for collection agencies retained by corporations?

**Hon. Mr. Bales:** I don't have that, but for another year I'd endeavour to provide it.

**Mr. Renwick:** I think it's essential if the small claims court is to have any growth possibility that in some way or other, we segregate out the use, misuse, or abuse of the courts as a collection mechanism. I don't think there is any question whatsoever, once you get into the courts above the small claims courts, that the judges are pretty quick to make certain that the system is not used unnecessarily for collecting debts or as an additional method of harassment of individuals. I think that that whole question of the mechanism of the courts for debt claims has got to be looked at and analyzed very closely.

The second matter which concerns me about it is the reason why I had this correspondence with your predecessor. I keep referring to him as the then honourable—I guess he was the then honourable—Allan F. Lawrence. I had raised during the estimates that year, in 1971, the necessity of management consulting services being used for the purpose of reviewing the administration of the small claims court. Your predecessor was a man with a professional view rather than a managerial view, if I may use that term. He took a pretty traditional view that only those who had been brought up in the mysteries of the system had anything useful to contribute to improving it.

He indicated to me at that time that he disagreed to some extent with my suggestion, and that is what he stated in his letter. He went on then to say that the small claims court clerks themselves and their association had been most helpful and constructive in pointing out some of the real working problems that arise in the court which cause not only inconvenience but delays. It was as a result of this type of concern that on June 1

of this year the clerks of the small claims court in Metropolitan Toronto met with Chief Judge Bennett to discuss how the number of court days could be increased to meet the backlog that had been developed.

I just wanted to say that I trust that this concern the minister has expressed and which runs throughout his opening statement about management information control will be focused on the small claims court question in the Metropolitan Toronto area and in the other city areas of the province. There is not only the question of the way in which the small claims courts function, there is also again the prime question of the quality of what takes place in those courts. I have very grave reservations about the quality of the service which is provided to the public in the small claims courts.

**Hon. Mr. Bales:** Could I respond to that for just a moment?

**Mr. Renwick:** Yes, right.

**Hon. Mr. Bales:** I am not sure, Mr. Renwick, whether you were here when we were speaking about this before or not, but over the past year we have recognized the need, particularly with the large volume here in York, to upgrade this system. We now have three judges whose responsibility it is to deal with small claims court matters entirely and all of those people are legally trained. They work under the direction of Judge Bennett. From time to time they are assisted by the county judges in doing that work. But we have been able, I believe, with those appointments—and two of them were made only within the last six months—to proceed to expedite many of the matters there.

This coming summer one of the things that will be done will be to look at those courts and their rules and procedures and so on to see what we can do to improve that kind of situation. Frequently it is an area where lawyers are not present—and they shouldn't necessarily be there—but we are trying to make the procedures as simple as we can, and yet have them fair, equitable and protective of the rights of both parties.

I am very anxious to improve and really expand that small claims court as much as possible. I think there is a substantial area there of assistance to many people and the public.

**Mr. Renwick:** I think that maybe the quality of the service needs upgrading; I think the efficiency of the service needs upgrading; and something which I would refer to as the



tone of the proceedings requires to be upgraded. There is just a little bit too much of the hustler atmosphere around the outside of your small claims courts—

**Hon. Mr. Bales:** I am aware—

**Mr. Renwick:** —and inadequate facilities for endeavouring to negotiate the proverbial settlement at the last minute, and there is undue pressure brought upon impecunious defendants in the small claims court for some kind of a settlement at the last minute.

There are delays with respect to adjournments. There are delays insofar as waiting around for cases to be called is concerned. There is an unnecessarily long list of cases called for a particular day on the assumption that so many of them will collapse, that some of them will be heard, without any regard for the inconvenience which it causes to many people who wait around throughout the day, waiting for their cases to be called.

Again, I say it with some diffidence, because while I have been in the small claims courts on occasion, I am not a regular attendant there. But those are the specific impressions which I have from my own knowledge and certainly impressions which are related to me by other persons.

Somehow or other—I re-emphasize the point I made about the criminal courts, about motor vehicle accident offences—this is again, so far as civil litigation is concerned, the place at which the great majority of citizens come in contact with the system. Very few citizens find themselves in the county courts or in the Supreme Court of Ontario. If one compares the number of dollars spent on the county court facilities and the Supreme Court facilities with the number of dollars spent on the facilities for the small claims court, the disparagement draws attention to the lack of attention which those courts have received.

Again, the late Dean Wright often referred to the point that we might very well invert the system—that we spend all the money at the bottom and put all the so-called best people at the bottom of the system and that you could get along with less adequate facilities and less adequate people at the top of the system. That's perhaps over-stressing it, but the fact of the matter is that we don't know yet—and we will get it from the Ministry of Government Services—the cost of the renovation of Osgoode Hall. The cost of the new court-house is a known figure. Not that those courts should not have that kind of facility, but that in any relative sense the administration of justice in the lower courts,

and in particular, the small claims court, is quite inadequate.

If the minister has to give priority to various courts then I think he should give the priority to the small claims courts and to the other questions which I raised in the appropriate place related to the provincial courts in the criminal field.

There is one other point of which I would hope a note would be made and a reply given to my colleague, the member for Yorkview (Mr. Young), who asked me to raise it. He had a call from a rather irate constituent whose name I am not going to put on the record—but if, perhaps, when the note is made the reply could be addressed to the member for Yorkview; he could then give an answer to the constituent.

She had apparently tried to reach the court—presumably the county court—to find out where her particular divorce case was coming along on the list. She had no way of getting down there herself without losing either a half day's pay or a whole day's pay. She called the number she was given for some two days. Then she checked with Bell Telephone; they informed her that there was nothing wrong with the phone. She then called some other number which she was given and was told that people in the trial court office pay attention to those who are there in person and ignore the phone.

Again, I don't know what the practice or the procedure so far as providing information—

**Mr. V. M. Singer (Downsview):** Was this in Toronto?

**Mr. Renwick:** In Toronto—providing information by phone is. I don't know what the answer is, but perhaps you could have members of your ministry give me an answer for the member for Yorkview whether that information is readily available to the public if they wish to call through and use the telephone system.

**Hon. Mr. Bales:** We try to help people in that way. It's a little difficult over the phone because the phones are frequently busy and so on and a lot of people must use them. We would be glad to help provide the information for Mr. Young, if you could give us the particulars.

**Mr. Renwick:** I will get him to give you the particulars.



**Hon. Mr. Bales:** That is fine. If you would ask Mr. Young to send me a note, I will be glad to help him.

**Mr. Renwick:** The second matter that I think comes under—

**Hon. Mr. Bales:** We certainly do try. There is no prohibition against giving information.

**Mr. Renwick:** No, I didn't think there was. It is very annoying to call and call a public office number and not get an answer. If that is occurring, and there is no reason to disbelieve—

**Hon. Mr. Bales:** I think you would more likely get a busy signal.

**Mr. Singer:** Is that the county court clerk's office?

**Mr. Renwick:** I don't know.

**Mr. Singer:** I call them very frequently and I always get an answer. I never had that experience.

**Mr. Renwick:** There was another matter which appears to me to be appropriate that I could just raise in this instance. Again, my colleague the member for Yorkview asked me if I would raise it here. If it is not the appropriate place, perhaps you could tell me. Otherwise, in the interests of efficiency maybe you would take the information and answer it.

In a case which was related to him and which he is concerned about, the damages on a motor vehicle accident claim — along with the Ontario Hospital Services Commission claim for services rendered to the plaintiff—were in excess of the amount recoverable under the motor vehicle accident claims fund. The case went to the appeal court and the appeal court held that there was no preferred position to the plaintiff and that the hospital commission was entitled to come in pro rata and share in the award up to the \$35,000 made available under the motor vehicle accident claims fund.

**Mr. Singer:** At that time—it has since been raised.

**Mr. Renwick:** Yes; whatever it was. I think that the principle still holds—that if there was an award in excess of the maximum the Ontario Health Insurance Plan would come in now to share pro rata to recover its proportion of the insured services.

The question was raised whether or not that was a legitimate position for government

to take in those circumstances, having regard to the priority that might be accorded to the pain and suffering and actual pecuniary loss of the individual in the society rather than the so-called uninjured government commission. Perhaps the minister would look into that. Again, I will ask my colleague, the member for Yorkview, to give you the particulars that raised that question.

**Hon. Mr. Bales:** We will look at it.

**Mr. Renwick:** All right.

**Hon. Mr. Bales:** He is going to write to me about it.

**Mr. Renwick:** Now, the last point—I should say, there are one or two other points. No, I won't raise those. There is one another point.

I mentioned a few days ago—I know my colleague, the member for Downsview, is most anxious to get in—

**Mr. Singer:** I enjoy listening to you.

**Mr. Renwick:** I thought you did. I raised the other day the possibility that somewhere in the court system, at the small claims court level or elsewhere, there be something less than an adjudication and something in the nature of an arbitration or a settlement of disputes in a much more speedy way than going through the traditional adversary system. I simply draw to the attention of the minister what I didn't realize at the time when I made those remarks—that they are endeavouring to do something like that in the Province of Manitoba. I am reading from a release which I happened to find:

The major proposal, however, is the addition of a new part to the County Courts Act which provides for a summary procedure which would permit parties with cases involving not more than \$500 [they also have a small claims court system so this is in addition to or a substitution for that] to have the case informally adjudicated or arbitrated before a county court clerk or deputy clerk with the consent of the parties on the filing of a simple written statement of claim.

When heard by a clerk or a deputy clerk, the matter could be appealed to a county court judge whose decision would be final except for an appeal on the question of law. The summary hearing would be held without the ordinary rules of evidence and the decision of a clerk or deputy clerk would be a judgement of the county court when filed.

Provision is made for payment of cost allowances not exceeding 10 per cent of the amount of the judgement where the successful person is a plaintiff and not exceeding 10 per cent of the claim where the defendant is successful. Similar allowance would also be payable to the successful party on appeal.

Where a party refuses to consent to a summary hearing, the action would be heard by the county court judge in the regular way but the disagreeing party would be required to pay into court security for costs. When the non-consenting party is the plaintiff and is unsuccessful he would be required to pay to the defendant the costs provided under the present rules but if successful, he would be entitled to recover costs limited to 10 per cent of the judgement.

I am not suggesting that the costs part of that particular quotation is particularly meritorious.

The idea that by consent two parties could go, in a very informal way, and have a quick adjudication made of a claim rather than going through the traditional adversary system may have some merit not only with respect to small monetary claims but some very real merit in settling the kind of question which the member for Scarborough Centre (Mr. Drea) raised at the conference on consumer protection at Osgoode Hall. That is the quick adjudication of the question of whether or not the merchant should provide a substitute broom for the lousy broom that he sold a particular customer on a particular day, or that type of consumer protection decision.

I think it was quite clear at that conference that there is a limit to the public relation mediation function that any consumer protection branch can perform; or with respect to any enforcement provisions that the consumer protection branch, either federally or provincially, can perform which is not a direct contravention of the law. It's not really very well suited to settling a minor but important dispute in connection with shoddy goods which are sold to a particular customer in a particular store.

Again, I am not absolutely certain whether this produces more problems than it would solve. As soon as one starts about the question of somebody adjudicating something and then providing for an appeal, you begin to wonder whether it is going to clog up the system. It may well be that we don't need to get involved in talking about appeals. A very clear-

cut system of arbitration by which the parties, in fact, accept the decision of the arbitrator, and with very restrictive right of appeal if the arbitrator simply goes haywire, may have some merit in clearing up not only the backlog in the small claims court, but in providing an additional avenue for the settlement of the kind of thing which is very frustrating now to the individual because he doesn't really have any adequate court to go to to settle that kind of question.

It may well be that if and when we have new warranties legislation, it will be even more readily done to have an arbitrator decide a specific issue in dispute between a customer and a merchant related to shoddy goods.

**Hon. Mr. Bales:** From your notes, is this a recent innovation?

**Mr. Renwick:** Yes; it was apparently within the last 15 or 16 months that they made this amendment.

**Hon. Mr. Bales:** It's another approach, isn't it? As far as I am concerned it is worth looking at.

**Mr. Renwick:** It is another approach.

**Hon. Mr. Bales:** It is like my approach to traffic tribunals, to a degree. It is a different area but it is well worth looking at.

**Mr. Renwick:** It may be. Those are all of the matters that I believe I want to raise under this particular vote. Thank you, Madam Chairman.

**Madam Chairman:** Mr. Lawlor is next.

**Mr. Lawlor:** Thank you, Madam Chairman. Just in general, if I may initially; this year, as far as I am concerned as the critic for this party, it is not my intention to review in depth the operations of the courts.

We are waiting upon and expect any moment a thorough broomsweeping of the courts and a considerable insight into what the workings might be. I see very little point because that will be a magnificent debate when the occasion arises which is in the offing and I look forward to that.

There are a few points, one of them is with respect to court space. There's a good deal of problem with the Supreme Court judges on University Ave., et cetera — with their space. I don't mean to be hypercritical, but just want to mention it. The chief justice's court, I understand, is used exclusively and solely by the chief justice. When he's not sitting there that court is reserved for him.



It's a holy of holies, unapproachable by his brother judges. This is what I'm given to understand.

Maybe a word might be said that court-rooms in that way, however decorated to suit the propensities of a particular individual, ought to be in general usage all the time. There shouldn't be a shuffling of judges into different courts, because of the unavailability of space, particularly when this mausoleum, this ornate and striking chamber, is available for these purposes. I leave that up to you as to how you handle that matter in keeping that particular court in operation.

I would like to know—

**Hon. Mr. Bales:** Can I just interject? That's used for the Divisional Court, as you know.

**Mr. Lawlor:** It is now, eh?

**Hon. Mr. Bales:** Yes. And besides that, the judges have moved back to Osgoode and have been working out some general changes. I want the county court to have more jury space. And so that's been—I've been meeting with them.

**Mr. Lawlor:** So there is a shuffling going on at the moment?

**Hon. Mr. Bales:** That's correct.

**Mr. Lawlor:** Fine. Do you remember, a year or so ago, a Judge Chartrand, I believe, on the county court level?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** Who refused to take provincial work? Whatever happened to that situation? Did he finally assume the responsibilities?

**Hon. Mr. Bales:** Yes, he did.

**Mr. Lawlor:** I see. And nothing further—the stipend—it was down east, down Cornwall way?

**Mr. Singer:** He was down east, wasn't he?

**Hon. Mr. Bales:** Yes, the Hawkesbury area.

**Mr. Lawlor:** But he refused to do provincial work?

**Mr. Singer:** He used to write interesting articles, too.

**Mr. Lawlor:** He hasn't written very much recently.

**Hon. Mr. Bales:** He had certain responsibilities and he's carrying them out. Mind you,

somebody may have told him what those responsibilities were, but—

**Mr. Lawlor:** Somebody might have—I see. And that he was being compensated, whether he knew it or not?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** Precisely, in this regard from the provincial Treasury. I wonder who told him?

In my initial statement opening these estimates, I mentioned the business of criminal appeals proceeding through the county court level. Partially because there's apparently a backlog there, partially on the basis of a certain level of fine having been washed out, and that anyone who was convicted of an offence can carry it up to the higher level. They don't have to pay the \$25 or \$50 they previously had to pay.

I was informed by some court officials that they felt this was a backward step and that it was the cause of considerable delay in appeal hearings in the criminal process. It was the one area in which the county courts find there is a backlog and a growing backlog. Have you given consideration to that?

**Hon. Mr. Bales:** I'm sorry, I just didn't hear the last point.

**Mr. Lawlor:** Oh. The backlog has built up in the appeals from the magistrates or the judges to the county court level, which is usually a trial de novo, and that you had eliminated a certain stipend that had to be paid.

**Hon. Mr. Bales:** That's right. Under the Criminal Code—the \$50.

**Mr. Lawlor:** Well, they were complaining that this was causing a backing up in the courts. Is this so?

**Hon. Mr. Bales:** Yes. It was an abuse really.

**Mr. Lawlor:** It's what?

**Hon. Mr. Bales:** It was an abuse.

**Mr. Lawlor:** It was an abuse, eh? Somebody who has a fine to pay can get themselves another eight months. Like immigration cases. I hope it doesn't go on for four years.

**Hon. Mr. Bales:** I hope not. Actually the approach is going to be that they pay the fine first and then they can launch their appeal. And that will perhaps be a condition of launching the appeal.



**Mr. Lawlor:** You're going to bring legislation forward to that effect, are you?

**Hon. Mr. Bales:** Well, that's the federal people.

**Mr. Lawlor:** The federal people? Well, we'll wait upon it. As I said, I'm not going to elaborate in the estimates on the court reform, but just a few points under this head that might be of some service.

First of all, I want to add to what my friend, Mr. Renwick, has recently said about the small claims court and the work being done there. Also you're aware that the Province of Quebec—I clipped an article from the Financial Post in September of 1972. It reads "On Trial: A Court Without Lawyers." That's a small claims court in Quebec—up to \$300—where the unique feature of the court is that lawyers can't appear before the—

**Hon. Mr. Bales:** Cannot?

**Mr. Lawlor:** Cannot appear before the court. The second feature of it, which has roused the wrath of the legal profession as you can imagine it might, was that there would be no appeals from the decisions of the court.

So that at both ends there, they say, the tendency is for the legal profession to generate a prolixity of their own rules—to carry them over from higher courts, from the rules of evidence and the whole system of objections. This is kind of an objectionable system, and they've got so sick and tired of it and the amplitude of the rules that they said, "We're just going to have to start from scratch." You remember that Sir Thomas More in Utopia wiped out all the lawyers too. He was a lawyer himself and knew the mentality.

What a judgement upon ourselves that this should be felt to be a necessity in a jurisdiction, in order to get cases heard and to get them heard fairly. This is a tendency towards what my friend was just talking about, the arbitration system. I would ask you to give consideration, not necessarily to excluding the lawyers because lawyers are not interested—in this province or at least in this city. They rarely appear before the small claims court. There's not enough money in it to make it worthwhile. I think one judge dropped dead when a lawyer showed up one morning. I mean, it's a dreadful sight. He knew that he would be there for the rest of the day on a minor case.

But this is a tendency towards the theory of arbitration. Again I bring this forward as a way of settling disputes with all the panoply of adversary systems, where third party interests and the general public are abnegated and completely ignored, and where you can get to the roots, without a lot of preliminary sparring and nonsense, and settle disputes of people who are in grave difficulty. I would think that once that's been tested and tried, it would tend to creep up the echelons of the system to a greater extent and obviate a lot of the difficulties that we presently suffer from.

I won't go into any greater adumbrations about the small claims court. I understand the minister—what a gift you're developing for yourself. You know, this gentle answer turning away wrath. I saw you do it to Mr. Newman a few moments ago. You've done it to me constantly. I take great offence. We come frothing at the lips and roaring like lions and you sing to us. I don't know exactly what is said at the end of the day, but it's a masterful gift, Mr. Minister. Do learn to give it up.

As far as the operations of these division courts are concerned it is the intention of the minister, as I understand it, to gradually winnow them out. Not to take the sword and cut, as McRuer would have you do in this regard, but just simply to take them over. You seem to be moving in with great gentleness—with what persistence I'm not aware, but with some gentleness.

The courts themselves—they are the last realms of private enterprise in the most public of all areas—are going bankrupt gradually. I understand in the last couple of years, 20 or so of those courts have just closed their doors and walked away. The ones in Toronto, some of which I know about—two or three of them at least, are suffering considerably. The fee level and the benefits they can derive have slackened and fallen back, and they are thinking of closing. You seem to be relying upon this so-called natural attrition to get rid of these particular courts and finally absorb them into some sensible system of the courts.

I would think under this head too that the Law Reform Commission will have rather categorical and incisive things to say as to what the role of these courts will be. Very quickly thereafter you will have to move into the situation of paying the clerks a decent salary, place the bailiffs under the sheriff's office and put this on to some kind of standing—because these courts are a crying shame

in the community. They do cater to—and I have raised this many times before—a special segment in the community. If they have to get their fees, then they are in the pockets of the finance companies and the creditors who place the overwhelming bulk of cases in their hands. They subserve those interests, I say, quite bluntly.

We have had instances where they pretend that they have served the summons, but the summons curiously never arrives. They are most anxious to sign judgement as quickly as they possibly can in order to reward those who reward them. What kind of an intricate and messy system is that that perjuries justice in the very process of pretending to give it out?

So these courts must be closed and as quickly as possible. I am not going to press you, but in the meantime though—

**Hon. Mr. Bales:** Can I just tell you that in the last either six or seven months we have closed 38 of them?

**Mr. Lawlor:** That is fine.

**Hon. Mr. Bales:** Ultimately we will be taking them over. The clerks and bailiffs will become civil servants.

**Mr. Lawlor:** And bringing them into a regional concept?

**Hon. Mr. Bales:** Yes. You know, when you close the courts then there is additional work put on the adjacent courts, the ones that take over the responsibility. We close them in groups and there will be another group before too long.

**Mr. Lawlor:** All to the good, but what you are relying upon is a slow process of attrition—not so slow as you are pointing out either; maybe you won't have to move in.

There are only two points under this that I would mention. In Mr. McRuer's recommendations of 1968 having to do with the courts, recommendation 260 was precisely to assume the financial and administrative responsibility for these courts which, as the years go by, hasn't been done. But by lapse and by golly apparently it will take place over a period of time. You have taken steps in the recommendation to appoint these judges who have specific authority over the courts involved.

I don't understand why under recommendation 271 you haven't abolished the certain powers of contempt that the judges, peculiarly in these courts, have. The contempt for wilful default under an order of a judge-

ment to pay a judgement debt, or it would appear to the judge that the judgement debtor obtained credit fraudulently in one way or another. There is the final one where it appears to the judge that the judgement debtor has "made or caused to be made any gift, delivery or transfer of property, or has removed or concealed any property with intent to defraud his creditors."

Those are very strident and wide powers. As long as this court system exists I submit to you that you should now rectify the situation with respect to the arbitrary powers which are, in my opinion, arbitrarily exercised by the judges of those courts. No other judge in any higher court, no matter what the situation is with respect to fraud, or failure to pay, or trying to switch property to beat creditors, ever assumed to themselves that ambit of authority.

It is wholly against the grain of the system and the spheres of common law. It is a small scandal that it should still be part of our law. You have made considerable reforms with respect to garnishees and payment orders of all kinds affecting people who are in difficulty. We know of cases where the judges not so long ago used these powers to put people in jail. We are back to Bleak House, Dickens, and the debtors' prison under regulations of this kind.

I wonder if the minister has any remarks to make on these contempt powers?

**Hon. Mr. Bales:** No, not at this time. Not that I am not sympathetic on it, but any court has got to have some authority in procedures to deal with these particular matters. At the moment I don't have any remarks—

**Mr. Lawlor:** May I put it to you that when a person has a debt with respect to fraud and tries to make a transfer of property, there are all kinds of procedures under the law to reverse that. You can take the matter before a judge; you can have the whole thing cancelled and restored to the position *quo ante rem*.

You have to agree with me that if this sort of thing appeared before a Supreme Court judge on a munificent debt—you owe somebody \$75,000 instead of \$75—that those powers do not apply. A judge of the Supreme Court simply couldn't commit under these circumstances.

This is a grotesque distinction in the law between the rich and the poor and it should be wiped out. A recommendation proposing this has been sitting around since 1968 and I think it is lamentably slow moving. I think



that you should be disturbed, if not incensed, about the continuation of it in our law.

Well, obviously you are not, so we will go on to the next subject.

In the area of the provincial courts, criminal side—I am sorry, that is the next item. I am finished then with this item.

**Madam Chairman:** Are you complete now, Mr. Lawlor?

**Mr. Lawlor:** Yes, I am complete for this vote.

**Madam Chairman:** I am sorry, I thought you had another item.

**Mr. Singer:** Madam Chairman, there are a number of things. I have listened with some interest to the comments of the member for Riverdale and the member for Lakeshore, particularly in relation to the small claims court. I agree with some of what they say.

I avoid small claims courts just as much as I can, but I happened to get dragged into one a few days ago. I was very pleasantly surprised. The judge listened patiently; I heard a number of cases dealt with before mine and he gave what I thought were quite fair decisions. He didn't accept all of my contentions, but he accepted many of them.

**Mr. Lawlor:** Except the important ones, I see.

**Mr. Singer:** I was pleasantly surprised because, as a matter of economics really, I have avoided the small claims court—unless a very important client in our office insists that we go into the small claims court. It just isn't worth while.

But insofar as this arbitration is concerned, I just don't understand it. What the two hon. gentlemen seem to be advocating is a system of replacing judges with something lesser than judges—clerks or deputy clerks or so on. I would think that one of the answers is to have a sufficient number of sufficiently trained people so they can deal with these small claims in equity and good conscience, as the statute provides. They are not tied in with cumbersome rules of pleadings and evidence and so on.

I was impressed, as I say, with the patience exhibited by this particular judge in listening to people who were unrepresented, whose knowledge of the English language was perhaps not as good as it might be, in getting to the root of the facts and separating the wheat from the chaff. You don't get this in the more formal courts on the higher levels,

which you can't really get there. And I fail to see what really is going to be achieved that is better than this in some form of arbitration conducted by less experienced and less trained people.

**Hon. Mr. Bales:** To a degree. When they are decisions up to \$200, they are not appealable. You can call it an arbitration, I suppose, but it is really a decision—and it is a final decision.

**Mr. Singer:** And I think maybe there is some good sense in that. What I do quarrel with, and I quarrelled with it earlier in these estimates, is the fact that we continue even another day to have these people paid on commission. I don't see why it is such a formidable task to put the people that you want on salary and pay them good salaries, because presumably you are going to winnow out the bad people and keep the better people there. And to get these courts to function efficiently, I think you have to have good people there—good judges, good clerks, good bailiffs, and so on. I can see no reason for continuing any longer this commission system. I think it is an anachronism that we should have got rid of long ago and which we are getting rid of at far too slow a rate.

One question that does bother me insofar as court accommodation is concerned is the kind of cubbyholes that these courts so often operate from. And I am wondering particularly when and if you are going to get a proper provincial courts building in the city of Toronto, because the attempts to adapt the old city hall are not too satisfactory. These rooms were not constructed as courtrooms, by and large. You are spending an awful lot of dollars attempting to noiseproof them and attempting to provide a reasonably even degree of heat in them, and so on; but you are not creating a proper atmosphere.

The courts down on the main floor with the prisoners emerging out of the nether regions up into the well of the court to be surrounded by iron bars is very distasteful and very demeaning to the system of administration of justice—the prisoners' box and the herding together; the people charged who are in custody, 15 or 20 of them with a day's growth of beard on their faces; the women with their clothing disarranged, and on and on. It really doesn't present any atmosphere of dignity or my idea of what the court should look like and the facilities of the courtrooms tend to aggravate this situation.

I don't know it is particularly under this vote, but there was a story in the Sun this



morning which included a partial transcript of evidence which took place in a provincial court where the provincial judge and the Crown attorney had a little trouble with the policeman. Even though the charge didn't seem to be properly before the court, the policeman entered into a serious argument with the Crown, the judge, and said he was going to arrest the fellow outside, notwithstanding what the judge did.

**Hon. Mr. Bales:** I felt the Crown behaved properly; not the policeman.

**Mr. Singer:** I would hope that the Attorney General's edict would extend just a little beyond the Crown and the judge and perhaps he could talk to his colleague, the Solicitor General (Mr. Yaremko), and find out what goes on with these police attendants.

**Hon. Mr. Bales:** Very much so. I read that story, as you did.

Can I just deal with the matter of the old city hall, because I made some statements previously about that? As you know, it is under lease until about 1977, I think, with certain rights of renewal. But it has been my feeling for some time, and I said so before, that there should be a new criminal courts building—I don't like to call it just the criminal courts building; I think it can have other uses. But I think there should be a new central one in Toronto and it should not be the old city hall.

I have made it clear to the government we should not renew that lease and, as a matter of fact, the basic planning is proceeding on that other matter. We brought in certain studies through management services as to location and other things. That is moving ahead now. It is a big job, but I think it very important that we provide a proper court facility for these areas. We can make far better use of the judiciary and so on in carrying out their job.

**Mr. Singer:** I think the planning is most important. In the planning of the new courthouse in Toronto a judges' committee was very heavily involved. Some of the results of that building have caused me to wonder whether judges are the best architectural planners.

**Hon. Mr. Bales:** Well, I have changed that.

**Mr. Singer:** Because I don't think some of the decisions that were made as a result of the recommendations of the judges' committee were the best.

**Hon. Mr. Bales:** I think the judges—

**Mr. Singer:** I am sure they worked conscientiously, but they are not architects.

**Hon. Mr. Bales:** I think they should be consulted, but I think the committee should be one in my ministry and with Government Services.

**Mr. Singer:** Oh, there was one point raised by—no, that is all I have for the moment.

**Madam Chairman:** Mr. Martel.

**Mr. E. W. Martel (Sudbury East):** I have only one question. I raised the matter quietly in correspondence with the minister. I would like to raise a couple of questions with respect to that, Mr. Minister, partly as a result of a letter which was addressed to Mr. Russell recently from my friend in Sudbury, Mr. Sopha. Why do you allow in small claims court, someone—and I raised this when I was talking to you about a week ago with respect to women who were also having problems getting money from their husbands—

**Hon. Mr. Bales:** May I just—

**Mr. Martel:** People in the far north have to come south where the charges are laid—no, not where the charges are laid; you will have to forgive my lack of legal jargon. But why is it that a hearing can be held here in Toronto for someone in Sudbury, whether it is in the small claims court or whether it is in family court? What in God's name gives that this would be allowed to go on?

**Hon. Mr. Bales:** Well, now, just a minute. There are also two sides to an action, aren't there? And you have to have evidence. Normally it is the place of payment where the action takes place.

**Mr. Martel:** What about the instance of a working man who—you know all the problems he is having, he doesn't read, he gets served with a—

**Hon. Mr. Bales:** This is a case—I won't deal with it by name—

**Mr. Martel:** Right, I would just as soon not, because—

**Hon. Mr. Bales:** It is one of those cases that our former legislative colleague, and I am sure our friend, Elmer Sopha, reviewed on his open line radio show, and took up the matter.

**Mr. Lawlor:** A great boy.

**Hon. Mr. Bales:** Yes, we miss Elmer. But since speaking to you last, I found that his honour, the Chief Judge, Judge Bennett, who is over these things, has written to Mr. Sopha about that particular case.

**Mr. Martel:** I have a letter addressed to His Honour Judge Bennett on April 30, from Mr. Sopha.

**Hon. Mr. Bales:** I don't have that.

**Mr. Martel:** Well, I will put it on the record just to show how pleased Elmer is with the judge's response:

I have been contemplating your letter of April 9 about this matter and I come to the conclusion that I am disappointed in the response.

**Mr. Singer:** Unusually slow for Elmer—21 days.

**Hon. Mr. Bales:** Usually his reactions are instant.

**Mr. Martel:** He says:

Judge Davies and yourself, I respectfully suggest, have missed the point. The claim on its face when tendered to the clerk was an abuse of the process of the court. It should have been spotted as such by Judge Davies. A cursory examination of the papers reveals it is a blatant attempt to harass and intimidate [and I will leave the man's name out] at a distance of 250 miles.

I fear that small claims courts are an instrument of oppression of the poor and in the enlightened age must be corrected.

He also on the same day wrote a letter to Mr. Russell, which isn't very complimentary either. I presume Mr. Russell is here. Mr. Russell has that letter. I won't bother to put it on the record, but it is not much more complimentary. In fact it is less complimentary to your department than it was, Mr. Minister, to His Honour Judge Bennett; where, in fact, Elmer maintains it is up to you people to protect people against this sort of nonsense, and it is not being done.

Now, this—and I think you missed the point that Elmer raised in his original letter, how was it that—

**Hon. Mr. Bales:** Do you want me to read Judge Bennett's letter?

**Mr. Martel:** Okay—now, let's be fair.

**Hon. Mr. Bales:** It might be helpful. He says simply:

Dear Mr. Sopha:

I have now investigated the matter with Judge Davies, who approved the jurisdiction which led to the default judgment. Section 69 governs, and it would seem that Judge Davies was correct in deciding that there was jurisdiction in York because the amount claimed was over \$100 and was payable at Toronto.

An application may certainly be made under section 88 of the Small Claims Court Act, but I think you will agree that a judgement should not be set aside without notice to the plaintiff. As you well know, the notice of motion is served on the plaintiff returnable on a fixed date.

The most consistent complaint I receive regarding decisions of York county court judges in the small claims court is that judgements obtained by creditors who have followed the procedures in the small claims courts are satisfied. You may well have grounds in this instant case to have the judgement set aside but I have no authority to make an exception to the established procedure. Just out of curiosity, would the clerk in Sudbury set aside a default judgement on the filing of an affidavit without notice to the other side?

I appreciate you are working without a fee and that you are trying to help someone who you think is getting a bad deal. I suggest that you can achieve the desired result but you will have to follow the prescribed procedures.

Yours very truly

**Mr. Martel:** It throws this man, as you know the background to it, into a terrible dilemma. He would have to miss time or he would have to, through a solicitor, have the work done here. Mr. Sopha would then have to bill him for the fees of a solicitor in Toronto.

**Hon. Mr. Bales:** I'm sure that the gentleman can get assistance if he needs it.

**Mr. Martel:** The man works. First of all, the thing that bothers me is that Mr. Sopha wrote—

**Hon. Mr. Bales:** There's a multiplicity of actions in these things and unless we follow rules—there have to be some rules and procedures—if we don't you are going to get legal chaos. People's claims are not going to be dealt with properly and equitably. For these reasons, as I'm sure you appreciate, Mr. Martel, there has to be order to these things.

**Mr. Martel:** Yes.



**Hon. Mr. Bales:** That's what we are endeavouring to maintain.

**Mr. Martel:** I might pursue it a little then, for my own clarification.

**Hon. Mr. Bales:** Sure.

**Mr. Martel:** Mr. Sopha complained bitterly about the fact that he'd written June Cardwell, clerk of the court. He was very disturbed that one day after the notice or whatever it is you sign saying the guy's got to pay—she replied one day after, on Feb. 8. In fact, he had written her on Feb. 2, in opposition to it; there is a week's delay there.

Was there anything taken into consideration, based on Mr. Sopha's representation on behalf of this man, before she signed this order ordering this gentleman to pay \$116 for literature which he can't read, because he can neither read nor write? He didn't sign the original documents anyway; apparently Mr. Sopha pointed this out to her. Would that have any weight in the decision rendered by her or was it simply because he didn't have a lawyer that it was automatically accepted as a pay-out?

**Hon. Mr. Bales:** Did the defendant take any action originally? It is my information he didn't.

**Mr. Martel:** He didn't know. He can't read or write. He was served a summons; he didn't know what it was because he doesn't read or write.

**Mr. Lawlor:** The matter should be treated as a disputed claim and filed as such. He's disputing the claim on behalf of a person or as a solicitor.

**Hon. Mr. Bales:** But he didn't do anything. This is the problem.

**Mr. Lawlor:** He wrote her a letter.

**Mr. Martel:** He wrote on Feb. 2.

**Mr. Lawlor:** She waited until the day after she signed the default judgement and then deigned to reply to the letter. I think it's an abuse of the process.

**Hon. Mr. Bales:** No, with respect, I don't think that is quite what happened.

**Mr. Lawlor:** That's what I understand.

**Mr. Martel:** That's what it says.

**Mr. Singer:** What did happen? That's the way I heard it.

**Mr. Martel:** In any event, not long after he got them, which was in January although the order for substitutional services was dated Sept. 12, he put them in my hands. You will see a photostatic copy of my letter of Feb. 2, 1973 to June Cardwell, clerk of the court. Curiously, she only replied on Feb. 9, telling me that the jurisdiction of the court in Toronto was approved and judgement was signed the day before. Unless we're misinterpreting that "day before"—and you take it to imply Feb. 1 while we take it to imply Feb. 8?

**Hon. Mr. Bales:** If, in fact, she got that letter. I haven't seen his letter but if, in fact, it amounted to a dispute to the action or could be interpreted as a dispute then, all right, she may have been wrong in signing judgement. If she was wrong, it should be set aside but the other party should at least have notice of that setting aside.

**Mr. Lawlor:** If I may interject, that's not an isolated instance. Down through the years I've had that over and over again with county court clerks and their anxiety to sign default judgements.

In many cases, when people come to see you they have never been served with the original summons. You have to go and serve the other side; you write and go through a rigmarole and file affidavits saying that it has never been received.

I think that court operates not just in a slack way but in a way beneficial to the people who pay them, namely, as in this case, some finance company or collection agency which is dunning some poor devil of a debtor. I think those courts should be investigated.

If you are going to get rid of them, fine, but let's do it pretty quickly because they are obnoxious and a sore spot—a running sore—in the system.

**Hon. Mr. Bales:** That's a pretty damning statement.

**Mr. Lawlor:** That's right. I attempted to get it through somehow.

**Hon. Mr. Bales:** They are of great assistance to many people. That doesn't mean that they are all perfect by any means. I have no compunction—and there is no question that if their judgement should be set aside, that's what should take place.

**Mr. Martel:** Mr. Sopha is working on it for nought and you and I are sitting around



here—what do you say that you and I go down tomorrow morning and get it set aside?

**Hon. Mr. Bales:** No, there are the rights of other parties.

**Mr. Martel:** Oh, yes.

**Hon. Mr. Bales:** What you said to me in the House is—

**Mr. Martel:** I'll go down.

**Hon. Mr. Bales:** You go down; you want that set aside but that isn't the way it works. Neither you nor I have special rights in that court.

**Mr. Martel:** No, I'm not saying we have special rights; not at all. But I'm saying that the other man has rights, too.

**Hon. Mr. Bales:** In essence you are saying to me that you and I go down there and we'll set it aside.

**Mr. Martel:** No, I'm inviting you to come down with me tomorrow and we'll file the proper papers to get it set aside. You are the lawyer; I'm not a lawyer. We are doing it on a voluntary basis, not as the Attorney General but as Dalton Bales, lawyer.

**Hon. Mr. Bales:** Take your colleague, Mr. Lawlor.

**Mr. Martel:** That has already been arranged. He will do it. He's much more concerned about this man than you are.

**Hon. Mr. Bales:** Just see that the other parties are involved and that both parties are treated fairly.

**Mr. Martel:** The point is that it should never have been signed in the first place.

**Mr. Lawlor:** Mr. Martel is going to make personal delivery on the other side, servicing documents.

**Madam Chairman:** Is that all for you, Mr. Martel?

**Mr. Martel:** It might as well be.

**Madam Chairman:** Shall item 3 carry?

On item 4, the provincial courts. Mr. Lawlor.

**Mr. Lawlor:** I haven't many points on this; again it's going to be under review. I notice that in McRuer's recommendations on the courts one of the things we've been mentioning in the House, I hope obnoxiously—as I see that is what we are being paid for—is in

volume 2, recommendation 212, with respect to justices of the peace, if I may just take a moment on that: "Men and women should be appointed to the office without discrimination and qualification should be the only criterion for appointment." How many women justices of the peace are there?

**Hon. Mr. Bales:** I can't answer that. I'll find out, but I don't know. There is a fair number.

**Mr. Lawlor:** There are a few? Okay. On the salaries of the judges—and you have done quite a bit about this over the past year, I am sure—the salaries of the judges have been recently increased for the provincial judges—I don't know about the family division but certainly in the criminal division. Most of them were increased by about \$4,000, so their salaries have risen—I suppose a median salary would be \$24,000—\$25,000 now for provincial court judges?

**Hon. Mr. Bales:** Yes, about \$25,500 to \$26,000.

**Mr. Lawlor:** Right.

**Hon. Mr. Bales:** Most of them by reason of the length of service.

**Mr. Lawlor:** Since I'm in a blunt mood this afternoon, may I say that they are not at all satisfied, apparently? The word that comes through is that is quite inadequate.

**Hon. Mr. Bales:** That wasn't exactly conveyed to me by the representative of their association. That wasn't exactly what was said to me.

**Mr. Lawlor:** Are you saying now that they are pretty well, by and large—

**Hon. Mr. Bales:** No, we all would like more money, sure. But what they did say to me is that they recognize the increases that have been made. They hope that it can continue and under the circumstances, in recognizing all the demands, they feel it has been pretty good.

**Mr. Lawlor:** I won't begrudge them salary on that scale; I think that is adequate. One of the things we have to worry about is judges not getting enough.

**Hon. Mr. Bales:** What do you think we should be paying them?

**Mr. Lawlor:** I'm saying that I'm not taking great exception—

Hon. Mr. Bales: Just as assistance to me?

Mr. Lawlor: —to that \$25,000 a year; that's about it as far as I'm concerned. If they are not satisfied it's too bad for them.

Hon. Mr. Bales: Mr. Russell has just passed me a note. They are mostly at \$27,850.

Mr. Lawlor: Pardon?

Hon. Mr. Bales: The majority of them are at \$27,850.

Mr. Lawlor: Well, all right, but resist any further demands! A man making that kind of money is in a very elite section of the community.

When somebody who has stolen a stocking from Tower's store comes before them, if they are making money so that they could buy a box load of stockings if they saw fit, they have very little sympathy with, or understanding of, the kind of problem that some harassed housewife has with respect to a decent pair of stockings. The tendency is not to treat sympathetically.

In other words, certainly salary levels leave us remote from and antipathetic to people around us whom we are supposed to be serving in one capacity or another. That doesn't mean to say I wouldn't welcome a salary raise in the Ontario House!

Still, with \$18,000 as again \$25,000, considering the type of job we do, I think they are adequately paid now. I pointed this out to a number of criminal judges. As a matter of fact, they mostly agree with me that in light of those circumstances the former salaries were probably adequate. But it eats them up.

The other area that I just want to mention briefly is the family court. The member for St. George (Mrs. Campbell) has mentioned it a good deal during the estimates—all to the good. My only comment here is that when the Law Reform Commission proposes reforms of the courts I hope it will hew out a real jurisdiction for the family court—that is, the domestic relations courts—and place within the demesne of this particular court all matters now heard by social welfare courts as well as cases dealing with divorce, separation, marriage, annulment, alimony, child custody, non-support, reconciliation—Lord, how they need help in reconciliation to provide the proper facilities and competent people to give family counselling and advice.

Mr. Martel: They are so few and far apart across this province that you have to look for them with a fine-tooth comb.

Mr. Lawlor: Exactly.

This court should also deal with paternity suits, tutorship and offences against the family under the Criminal Code. They should all be in a single court jurisdiction, and the jurisprudence will grow as well as the inter-relationship between these various heads, which are profound. Instead of being so segmented and spread over the court system, everything from the surrogate court on one side of the fence clean through to the Supreme Court on the other, with respect to various forms of alimony actions, annulment proceedings and the whole works should be consolidated and put together.

There is one other remark I have to make about the family court. I forget what section under the Juvenile Delinquents Act it takes place, but I have had it told to me by a judge that he is torn when a parent or two parents come before him with a recalcitrant child, and he has to sit there while the mother stands up and says, "We can't handle him. He is derelict. Then, as sometimes happens, she pours abuse upon the head of the child; and the child is sitting there, usually without any defence whatsoever.

The judge has to adjudicate at that stage as to whether that child will be sent to a training school or returned to that home. The child is wounded, completely turned in upon himself because of this attitude displayed in public to a strange man as to the disposition of the parents toward him. How would it be humanly possible to return that child in those circumstances? This is the wretched deportment of those kinds of cases in the family court setting at this time.

Most judges feel they have little alternative other than to send the child to a foster home, because obviously these parents are far more wretched than the child himself in terms of their neurosis or whatever it is that afflicts them; they should be the ones undergoing treatment of one kind or another.

The question is whether to send the child to some home or to a training school. In those circumstances, sitting as a judge, I think in most cases one would say that the training school probably would be a form of alleviation against parents of that kind.

This is the kind of thing that you are up against in those courts. Let us hope the recommendations that may come forward will change that. I know that you haven't got jurisdiction—it's a federal statute you are operating under there, I believe—but again a rectification of that particular procedure long



has been sought by members of this party in this House.

That is all I have to say on this vote, Madam Chairman.

**Madam Chairman:** Shall item 4 carry?

**Mr. M. Gaunt (Huron-Bruce):** No, Madam Chairman. May I say a word about bail? I know that it has been discussed before, but I know that bail is given under the provincial courts. May I just say a word and ask a question or two?

**Madam Chairman:** We are long past it, you know, Mr. Gaunt.

**Mr. Lawlor:** It falls right in the middle of the provincial courts.

**Hon. Mr. Bales:** I won't argue it with the Chairman.

**Mr. Gaunt:** Madam Chairman, I can't be here all the time, and I just wanted to raise a matter having to do with the bail that is given under provincial courts, if I may do that.

**Madam Chairman:** All right. But you are returning to a previous item, and we haven't been following that practice at all.

**Hon. Mr. Bales:** But he's only done it once.

**Mr. Gaunt:** Yes, I have only done it once; and it's only going to be a very brief interlude.

**Mr. F. Drea (Scarborough Centre):** Depends who does it. He's a nice fellow.

**Mr. Gaunt:** Well, I wanted to get some clarification with respect to the application of the bail reform law—how it's being applied by the police and the provincial judges, and even by some of the Supreme Court judges.

As an example, there was a heroin raid in Toronto several months ago, I believe, and one of the people in particular about whom I read in the newspaper had a long criminal record. And if I recall correctly, the bail for that gentleman was set initially by Provincial Judge Addison at \$100,000; then it was reduced to \$50,000 and again to \$25,000.

Subsequently, the fellow skipped off to the United States. He had a long criminal record; and he was picked up in the States when he went back.

The fact of the matter, though, is that he was released on bail and, in my judgement at any rate, in view of his criminal record

and of the circumstances he shouldn't have been released.

I wonder what is actually happening in this regard. I noticed in the paper that the federal Justice Minister has indicated that he feels it's a good Act—

**Hon. Mr. Bales:** It is.

**Mr. Gaunt:**—and that it is worthy of upholding. But the fact of the matter is that to a layman it appears that it is being abused. I'd like to have the comments of the Attorney General in this regard.

**Hon. Mr. Bales:** Madam Chairman, I think the Bail Reform Act in its basic purposes is a good Act, in that prior to its being brought in in January, 1972, quite a substantial number of people were held in jail, in my view, needlessly. But like all new statutes it does take time for people to become familiar with it, and toward the end of last year, I think, I was concerned because a substantial number of instances arose where a person perhaps had been granted bail and then, when he was free, committed other crimes; then he came back and was allowed to go again.

**Mr. Gaunt:** That's right.

**Hon. Mr. Bales:** It's a problem of interpretation, and in my view a number of changes need to be made in that legislation. In January I wrote the federal Justice Minister a long letter setting out recommended changes that needed to be done, not taking away the basic purpose, but in our view that would make it a more practical and satisfactory statute. I heard nothing for some time, then the senior officials of the Justice Ministry in Ottawa contacted our people—Mr. Callaghan and others—and came down here and there were extensive meetings on it. We sent back further recommendations and I am meeting Mr. Lang later this week, along with others, and this is one of the items that is going to be dealt with.

I don't want to go into the technical parts of it, but there had to be better information provided for the police as well. Since the beginning of this year, I think the situation has improved fairly substantially because of something called CPIC, which is information for the police. In many centres now they can gain information. For example, is a person out on bail on other charges? They can gain a great deal of that information very quickly, which helps them know whether this man should be refused bail or if they should recommend it and so on.



It takes time, but I think that in the latter months, if you and I reflect, there hasn't been nearly as many complaints as there were in December.

**Mr. Gaunt:** I agree. Is it a problem of information when the police pick up a suspect?

**Hon. Mr. Bales:** Yes, basically that.

**Mr. Gaunt:** It is a problem of information because they don't know in fact whether that person has committed a crime down in the United States or in Mexico.

**Hon. Mr. Bales:** Or in other parts of Canada. Say from Winnipeg down to here—how long does it take to travel that distance and get into difficulties here, perhaps? That goes on the computer in the police forces. The central computer in the police forces can gain that information very quickly.

**Mr. Gaunt:** Now you used the term CPIC?

**Hon. Mr. Bales:** Canadian Police Information Communications.

**Mr. Gaunt:** This is already set up now?

**Hon. Mr. Bales:** It is a computer. You have to feed the information into the computer before you can draw it out. That is what is being done.

**Mr. Gaunt:** That is being done now?

**Hon. Mr. Bales:** Yes. We co-operate with the federal authorities on it because it has to be interprovincial.

**Madam Chairman:** Thank you, Mr. Gaunt. Shall item 4 carry?

**Mr. Martel:** I would like to raise a matter just before we leave this. Coming back to family courts, does your ministry hire students from the various CAATs and so on to work close to the courts with respect to consultations and so on with young people in trouble? Is it left primarily to the Ministry of Community and Social Services to supply those types of people who can—

**Hon. Mr. Bales:** Community and Social Services.

**Mr. Martel:** It is strictly Community and Social Services?

**Hon. Mr. Bales:** We take advantage of additional assistance in the summer as far as we can, in detention homes and places like that.

**Mr. Martel:** Then there seems to be a serious lack of this type of people around the courts to assist not only there but in family counselling and so on across the entire province. When one tries to find out where there are counsellors available, they just aren't there. There are a few showpieces that you hear about, but in fact the scarcity of these people makes it impossible except to punish people and not rehabilitate them at all.

**Hon. Mr. Bales:** No, I can't accept that.

**Mr. Martel:** Well it is a fact of life. When you ask in the Sudbury area what type of consultants there are—

**Hon. Mr. Bales:** Let's just think about the province. You have the probation service throughout the province. We have had that for a long time. We have a number of agencies that are there to assist people. I think there is a great deal of benefit and merit to look into ways to improve, but I don't think we should take the position that there aren't these facilities there, that people aren't there doing their jobs, because they are.

**Mr. Martel:** I am not suggesting they aren't doing their jobs. All I am say is there are not enough of them. For example, how many people are there in and around Sudbury to provide that type of service?

**Hon. Mr. Bales:** I am sorry, I can't answer that. The Ministry of Community and Social Services—

**Mr. Martel:** Right, and when I raised it with the Minister of Community and Social Services—

**Hon. Mr. Bales:** We will find out if you want us to. I will be glad to get the information.

**Mr. Martel:** We have tried. When you go through the various estimates with that minister, trying to avoid escalation of young people's problems, he decides to talk about showpieces and beyond that there is nothing. You say to him, "Tell us how many people you have here. How many marriage counsellors do you have here?" and he has none. But you read the book and it says there are a great many. Sure, there are some in three or four areas of the province. I venture to say there isn't a marriage counsellor in the city of Sudbury hired by this government.

Now how in the world can you reduce these problems or prevent them from escalating if there aren't these back-up people available?

**Hon. Mr. Bales:** If you would like to give me a specific question then I will go to the other ministries and find out.

**Mr. Martel:** Will you ask the Minister of Community and Social Services (Mr. Brunelle) how many marriage counsellors are employed by the government of Ontario in the Sudbury district? He will tell you none. Credit counselling—the whole business, it is all there, and it is all related to—as the member for Grey-Bruce (Mr. Sargent) would say—this whole ball of wax dealing with problems that are witnessed in the family courts, and there are no backup services. They are so scarce across this province, Mr. Minister, as to make it virtually impossible to rectify the problems.

**Hon. Mr. Bales:** We used to have probation services in this ministry and I think it was a pretty good service. It is now in Correctional Services and it is still a good service, a very good one. That is one of your backup services, and a very important one in the community. It is in my area.

**Mr. Martel:** You see, you can't discuss this problem in isolation. Maybe that is what is wrong. It can't be in isolation. "It is Mr. Brunelle's responsibility," or "It is Mr. Yaremko's responsibility," or "It is Mr. Apps' responsibility." There is a tendency to do that and in fact you defeat the whole purpose.

These aren't isolated problems. The family that has a child in trouble isn't one isolated problem that you can take out of the context of the family and apply it through a probation officer. It is the whole ball of wax that you have to look at and it seems to me that it is badly lacking.

You know when I have a judge—they aren't known to be friends of mine—come to see me about it because they are so concerned that they have no backup in dealing with the family court, in order to try and assist young people or families from getting back into the same pattern which led to the problem, and he says he hasn't got the tools to work with, besides a stack of law books, then in fact there is something wrong with the system. When in fact you talk to the Minister of Community and Social Services and say to him, "How many credit counsellors do you have in the Sudbury district?"—which is my own area—"None." "How many family counsellors have you got in the Sudbury district?" "None." When you have to make the arrangements because you have a few connections with people in the various teaching institutions in Sudbury to family counsel these

people, isn't there something wrong somewhere?

We are falling down on that and in fact we create much more costly problems in the long run in terms of social costs than there would be if we nipped it in the bud, and if there were the backup teams necessary to resolve these problems at the beginning rather than when chaos has set in completely.

**Hon. Mr. Bales:** Well, Mr. Martel, I am going to talk to the Minister of Community and Social Services.

**Mr. Martel:** I hope so.

**Hon. Mr. Bales:** I would like to have his side of the story.

**Mr. Martel:** I hope so. You read the Hansard, I can go up there and bring you last year's report, which said 78,000 kids were interviewed in Ontario. That's great! If they were seen once, they would be very lucky, because there aren't enough counsellors around.

All I am asking for is something positive. I asked the minister that last year. Let's look at it as a whole package. I am firmly convinced that the preventive aspect is a lot less costly in social terms, whether it be suffering or financial, than what's going on at the present time.

**Madam Chairman:** Thanks, Mr. Martel. Mr. Singer.

**Mr. Singer:** Madam Chairman, I want to find out—and it's perhaps tied up in the recommendations of the Law Reform Commission—the extent to which our provincial courts, particularly in the judicial district of York, on the criminal side, are being fully used. There was a very interesting series of articles done in the Star about the absence of judges in those courts in the afternoon. The articles say the lists are rather long and it takes a long time to get on to trial on occasion with remands and setting dates for trial, and so on.

I ponder about the importance of provincial judges being allowed to sit on licensing commissions, police commissions, and so on. This seems to affect some of their available hours. There is one judge, it has been suggested, who is not very happy to extend his sitting hours if there is a meeting of the Metropolitan Toronto Licensing Commission scheduled. Certainly most afternoons around the city hall, there is very little activity in those courts.



I am wondering what kind of studies have been done and what kind of direction is being given to make reasonably more full-time use of the judges, the court facilities, and so on, and what progress, if any, you are making along these lines.

**Hon. Mr. Bales:** Chief Judge Hayes and I have had a number of discussions on this whole question. I have said it here before, I am not in favour of judges being on those other types of commissions, hopefully, I will remove them from them.

**Mr. Singer:** Well, is there any problem? If that is your opinion, why can't you just say, "Off," and they will then be off, eh?

**Hon. Mr. Bales:** We are changing legislation, and so on, but I think it is a broader picture. At the moment, county judges, for example, are on police commissions. Provincial judges are not, except in very isolated circumstances. We have had discussions with my colleague, the Solicitor General, on that. I think their job is judgement. I will put it that way. And that's the way it ought to be.

**Mr. Singer:** And not on licensing commissions or police commissions or any of these other things?

**Hon. Mr. Bales:** Mr. Singer asked for some specific information. Yes, a caseload of 1,300,000 odd. It's very substantial.

**Mr. Singer:** It is a substantial list. How much of a backlog is there and what is the average length of time that a case is on the list? The people who are put into jail pending trial move a little more quickly. For the ordinary kind of a charge when a man is released on his own bail or summoned, how long does it take before those matters are dealt with?

**Hon. Mr. Bales:** We have for example, night courts which we have inaugurated. We have 23 of those courts, on Tuesday and Thursday. In North York, Etobicoke and Scarborough we have 10 courts, on Monday, Tuesday, Wednesday and Thursday and at Keele St., three courts, each Monday and Wednesday.

Under the uniform traffic tickets we have a date for the first court. In Scarborough, it is four to six weeks in day courts; at night courts it is longer because of the way it works out. It is eight to 10 weeks.

**Mr. Singer:** Can I stop you there?

**Hon. Mr. Bales:** Sure.

**Mr. Singer:** Isn't that a little ludicrous? A man is charged with making an improper left-hand turn and it takes six weeks before he gets a court date.

**Hon. Mr. Bales:** The problem is in the night courts and we have stepped up the flow—

**Mr. Singer:** No, you said four to six weeks on the day courts and longer on the night courts. Isn't it a little ludicrous that a minor traffic offence takes six weeks to get a court date? I had one I brought to the attention of your predecessor, where I think it was six months after I failed to stop at a stop sign—or it was alleged that I failed to stop at a stop sign—that I got a court date.

**Hon. Mr. Bales:** In the case of the night courts, for example, I have had them increase the number of cases on the list. I wanted to see the length of time they set. They had 35 cases, and then we stepped it up, because I found in some of the cases the courts were sitting for three-quarters of an hour and their work with those who had turned up was done. It is very difficult because we schedule all those cases, then, prior to the hearing, many people pay their fine into court.

**Mr. Singer:** I can appreciate that, but why should there be the lag of that length, even in setting the court date? It is a little less now maybe than it was a couple of years ago.

**Hon. Mr. Bales:** It is less now, but it is the volume that we are coping with. For example, we are doing a number of things. Where possible, we are trying to schedule more trials for 2 o'clock to avoid the convenience of bringing them all in at once. You and I know what it's like. Everybody thinks the court starts in the morning; so we are trying to schedule them differently and bring a number in at 2 o'clock rather than a larger number in the morning. We are doing that in other courts as well.

**Mr. Singer:** To make it meaningful, have you got any list of the backlog? How long does it take?

**Hon. Mr. Bales:** Let's deal with the backlog under the Criminal Code. I will just go through them for the different parts of the province, if I may. Essex in April, 1972, was 1,227; in April, 1973, it was 1,281. Middlesex was 1,010 a year ago; it is 1,431 now. Ottawa-Carlton went from 870 to 1,296 and Sudbury from 797 to 738. Wentworth was



2,661 and dropped to 1,602; York went from 13,000 to 15,000.

**Mr. Singer:** It is getting worse.

**Hon. Mr. Bales:** In York, the figures include Liquor Control Act offences and narcotics offences. I have to tell you that the narcotics offences are up substantially.

**Mr. Singer:** But they also include other federal offences, I would presume, income tax offences and so on.

**Hon. Mr. Bales:** Yes, but I particularly note these two because this is where there is a substantial increase.

**Mr. Singer:** Those figures do something less than fill me with pride about the speed with which we are handling the cases. How are we going to break the backlog?

**Hon. Mr. Bales:** I think with Hayes there is an opportunity—I should say Judge Hayes. I don't want to be disrespectful because I am not. I have a high respect for him and I think you do, too.

**Mr. Singer:** I do, too.

**Hon. Mr. Bales:** If we give that man an opportunity this year, I think next year we are going to see a very substantial change, particularly if we can bring in this pilot project I want it to get rid of a large number of the minor traffic offences, which really provide much of the backlog here. There are cases where there are frequent requests for adjournment. You have got to tie in the evidence part of bringing in the police and scheduling them.

**Mr. F. W. Callaghan** (Deputy Attorney General): One of the problems that the courts face, Mr. Singer, is the economics of the practice of law. Any changes which radically change our procedures for handling and processing cases involving counsel have a direct effect on that. I think we all recognize that the claims of the practice of the profession of law are a matter which courts have given consideration to in deferring and adjourning charges. When you are dealing with the criminal case backlog in Metropolitan Toronto, you are dealing with a rather small criminal bar that is engaged in a great percentage of the cases. This of necessity requires a continual number of adjournments and remands, in particular cases. As long as that system prevails you are going to continue to have a backlog. I think it is a fact that is often

overlooked, but is a very real and relevant factor in—

**Mr. Singer:** I can appreciate the relevance of that. On the other hand, it has been my observation that particular—well, my observation is confined mainly to the judicial district of York—that most afternoons most judges are not working—not all of them, but most afternoons, most judges are not working in those provincial courts.

I also recognize that there is a change taking place in the legal profession. We seem to be producing more and more lawyers. We certainly have far more law schools than we used to have and many more applicants and many more graduating, so the size of the criminal bar is increasing.

I don't expect that judges should come in at 9 o'clock and sit until 6 every day, but say from 10 to 12, or 10 to 12:30, and from 2 to 4 or 2 to 4:30 is not unreasonable.

**Hon. Mr. Bales:** Of course not.

**Mr. Singer:** And most—not most of them, some of them, with considerable ingenuity, seem to avoid that kind of a working day.

**Mr. Lawlor:** If you went down there at 3 o'clock this afternoon, most of those courts would be closed. I have done it deliberately, out of the air, several times now. And Mr. Singer is perfectly right.

**Hon. Mr. Bales:** That depends. You know, you have to look at their case list. All right, what have they dealt with today?

None of us want them to deal with so many cases that they get—they must give careful consideration to all the facts before them. None of us want them to the point where they can't maintain that concentration.

**Mr. Singer:** No. That's the difference, say, between arbitrarily saying they must work eight hours a day or nine hours a day—I don't think anyone expects that, but I don't see why most afternoons most of those courts aren't busy with this kind of a backlog.

**Hon. Mr. Bales:** I don't carry around, nor should I, a time schedule of the judges sitting. We have raised this question continually and Judge Hayes assures me that they are there and they are ready to deal with the cases. There are frequent adjournments and it does upset the list.

One of the things that causes a great deal of trouble—particularly at that level of the judiciary system—is having the interviews

with legal aid. Frequently the defendants are late in going to legal aid.

We have now proposed to the legal aid committee that they have space we have shown them in the old city hall wherein they can operate and have an office, so hopefully those interviews can take place on the first appearance. It will speed things up considerably if that can be done, because there is no question about it, there are frequently two, or three adjournments if a person has not had his interview. He comes back to court, he has just consulted someone, and in fairness he can't go on. To me one of the points is to speed up those initial interviews so that people are ready to proceed when their cases are called and we will not face needless adjournments. It wastes the judge's time.

**Mr. Singer:** Another factor that disturbs me very much is the obvious lack, on this level, of anything approaching uniformity of sentencing procedure.

I recognize that you are never going to get complete uniformity, but there are some provincial judges who are notoriously lenient, and there are some provincial judges who are notoriously difficult. Again, without mentioning any names, I know of one particular judge who, if you have any kind of offence involving the Highway Traffic Act, you run 19 miles to avoid him because you know exactly what the sentence is going to be if he makes a guilty finding, whereas many of the other judges can be argued with, or talked to. This gentleman will listen, but his sentences seem to have a strange uniformity for all the offenders who come before him. I'm not accusing him of not listening, but he is just too tough, I think.

Are there any steps being taken to organize discussions amongst the judges? You are not going to get absolute uniformity on any occasion, and no two cases are exactly the same, but get them within shouting distance of each other. One would like to think that it shouldn't matter if you go before Judge A or Judge B, within certain limits; if the same kind of a conviction is made then the sentence should be within approximately the same kind of a range, which really doesn't pertain in many instances today.

**Hon. Mr. Bales:** Judge Hayes and before him, Judge Klein helped organize it. There have been frequent seminars on it with the judges—regional seminars, because it isn't just sufficient to deal with those in one immediate area. But there have been four of them

on sentencing since last fall to bring about greater uniformity in that area.

**Mr. Singer:** And what kind of attendance do you get? Is attendance pretty thoroughly indicated, and do you get a reasonably complete attendance?

**Hon. Mr. Bales:** It's one of the things that they are there to do.

**Mr. Singer:** And they do it, do they?

**Hon. Mr. Bales:** Yes. And Judge Hayes is travelling a great deal throughout the province, so that he can see for himself what is going on. He has a record of all of that kind of thing. It is kept so that he can see where there's great variance taking place.

But I think it is very important to bring these judges in from different areas, so that they sit down together and deal with the problems that they are coping with. But we have first-class attendance.

**Mr. Singer:** When you have appointed a new judge, how soon after his appointment does he start to hear cases? How much instruction work does he get?

**Hon. Mr. Bales:** It depends on the individual's background and experience of course, but normally it is about four weeks.

**Mr. Singer:** And what kind of instruction does he get and from whom?

**Hon. Mr. Bales:** He comes here to Toronto.

**Mr. Singer:** Yes.

**Hon. Mr. Bales:** So that he can work with the judges here and directly under Judge Hayes or those he assigns to instruct him. We find it best to deal with it here usually.

**Mr. Singer:** Is there any sort of course of instruction?

**Hon. Mr. Bales:** Yes.

**Mr. Singer:** What does it comprise, just in broad terms?

**Mr. Callaghan:** By and large it relates to his background. I don't think there is a course in the sense that there is a particular agenda, but a man who has not had experience in the Criminal Code will get experience at large—you know—a broad experience in the Criminal Code. A man who has not had evidentiary or trial experience will sit with the judge and get exposure to that, and discuss the problems daily. A man who has the experience in those areas will not really



be put through it to a large extent, other than sitting by the judge for a short period of time till he picks up the decorum and the other habits that go with the position.

**Mr. Singer:** Is there any effort made to familiarize the new judge with the penal institutions that he might send people to? "What is available at the Don Jail?" "At Guelph?" "At Kingston?" "Are there medical facilities here?" "Are there certain facilities there?" How does he get to become aware of that?

**Hon. Mr. Bales:** Visits are arranged.

**Mr. Singer:** Is that sort of a compulsory thing in advance of his beginning—

**Hon. Mr. Bales:** It's a continuing thing as well. It's worked in with all of them on a yearly basis.

**Mr. Singer:** Because very often a judge may be anxious to have someone he has convicted given medical treatment, or mental health treatment, or some particular kind of rehabilitation treatment—

**Hon. Mr. Bales:** It all depends what kind of service or assistance is available.

**Mr. Singer:** Yes.

**Madam Chairman:** Thank you, Mr. Singer. Shall item 4 of vote 1206 carry?

**Mr. Lawlor:** No, just one point arising out of that discussion.

I thought that the criminal bar had fallen into decline but that legal aid had rejuvenated it, and that many young lawyers were now participating and that the problem had been pretty well overcome.

**Mr. Callaghan:** In proportion to the number of people and cases that go through the provincial court criminal division, the lawyer ratio is very low. And the necessity of adjournments and remands—and I'm not saying there is anything wrong with this—to meet the convenience of counsel is, with respect, probably the main factor contributing to the backlog that you have in court.

I think this is not only a problem in Toronto, but is a problem in every major urban area in North America. Studies in the United States have demonstrated that as long as the courts keep deferring to the necessities for remands and adjournments, backlogs continue to build in courts in all urban centres.

**Mr. Lawlor:** In other words, are you saying that although the criminal bar has considerably expanded under the impact of legal aid, it hasn't done so proportionately to the number of cases coming before those courts?

**Mr. Callaghan:** It has done so proportionately in proportion to the number of cases, but it was very, very small a long time ago.

**Mr. Lawlor:** Yes.

**Mr. Callaghan:** But it has not kept up with the increased volume of cases.

**Mr. Lawlor:** Complete disproportion.

**Mr. Callaghan:** There is really not that large a group of solicitors or counsel actively practising, in proportion to the number of people who come before those courts.

I think your own experience—you would see certain members of the profession with great case loads—

**Mr. Lawlor:** Yes.

**Mr. Callaghan:**—in those courts and others with hardly any.

**Mrs. M. Campbell (St. George):** Madam Chairman, may I have a question or two on this matter?

First of all, with reference to what has been said about the case load. I wonder if there is any way or if any thought has been given—particularly, again, in the juvenile court—to what is building up in that court for your proceed work, where the juveniles are being placed in the same position as adults. Namely, if it is an offence which the Crown is required to be present on, or he feels that he should be, then you get the child before the court once for an appearance. Then it is remanded for a date to set a date, and then that date is set and you have a further date following that.

That, it seems to me, is reprehensible in any court, but is particularly reprehensible in a juvenile court to keep a child constantly before that court over a long period of time. That is not a matter with respect of yielding to the convenience of counsel. It's yielding to the demand for, and the fact that we don't have, Crowns.

I've raised the point before. I would like to know just what is being done about it. I think there was some assurance given that the minister would look at this matter again, but I'm not clear as to his answer and I'd like to have it recorded.



**Hon. Mr. Bales:** You've raised this in a slightly different way.

**Mrs. Campbell:** Yes, I raised it in another area. The criminal—

**Hon. Mr. Bales:** But I said at that time that you raised a good point and that I would look at it, and I shall.

**Mrs. Campbell:** I don't think I raised that particular point.

**Hon. Mr. Bales:** No, but this is part of the picture.

**Mrs. Campbell:** I did raise the point about Crowns. The other matter, Madam Chairman, is the matter of the use of interpreters in these courts. I would like to know what is the process by which an interpreter is tested. We have some marvelous interpreters, don't misunderstand me, but I'd like to know what procedure there is for checking out an interpreter.

**Mr. Singer:** They swear an oath and then—

**Mrs. Campbell:** Well, that isn't the point. First of all, you do have complaints—and judges are faced with this—that an interpreter in one language is really not using that basic language. There's a confusion between Ukranian and Polish, for example. A Judge has no way of assessing whether or not the interpreter is using the language that is needed at the time.

Secondly, the people who are in the court very often feel that the interpreter is with the establishment, and, therefore, they don't seem to yield very much in giving answers to questions. It's pretty hard to get it out. They have asked to bring their own interpreters. That has been rather frowned on for obvious reasons, I think. But is there a possibility that interpreters could be available, and if people brought their own interpreters, the court interpreter could assist the judge?

**Hon. Mr. Bales:** It would be an interpreter checking an interpreter, wouldn't it?

**Mrs. Campbell:** Well, the interpreter that is brought by the party would not be a part of the financial problem of the administration of justice, but you would still have your interpreter there to give assistance to the court. And it might make people feel more comfortable.

**Hon. Mr. Bales:** It might, but, Mrs. Campbell, I would be a little concerned on that. You said the interpreters are very able, and

that's been my experience with them—in anything I've been able to ascertain about them. They are there to give the information, unstinted, as exactly as they can and as best they can.

**Mrs. Campbell:** They have some problems.

**Hon. Mr. Bales:** Sure they have. You would know that better than I, having seen it directly. But I had some experience with this when I was in the Labour department, for example with the interpretation of some of the certificates of experience to qualify people for various types of trades. You get the situation where some of these people, perhaps not intentionally, give their own impression or version of it.

I think you've got to be very careful as to the interpreters you engage in the background. We're pretty fortunate at the moment. I had one case recently involving Portuguese. It turned out that the interpreter was doing a very good job and was having the evidence interpreted correctly and not, as was thought, making up his own version of it.

**Mrs. Campbell:** Well, I go back to how are they checked? How are they tested? Secondly, is there any way in which provision could be made for someone to be there in somewhat the same category, for the native peoples of this country? Particularly with women—even in the city of Toronto—their knowledge of the English language is not as extensive as one would think. Yet they have no such service available to them at this point, and you get an already overworked Millie Redman to go into every court, and she can't extend herself that far. Is there some consideration being given to that aspect of it?

**Hon. Mr. Bales:** There hasn't, but there may well be. I can see the point. There may well need to be.

**Mr. Singer:** Could there be, or should there be, some system of licensing and registration of interpreters, so that presumably there's some testing done and a list maintained, and if someone perhaps has acted improperly, their right to be an interpreter in the courts is removed? Could there be some degree of competence set as a test and then some kind of discipline?

**Hon. Mr. Bales:** Well, I think they are tested, to a degree. The Crown arranges for those tests through competent people in the

universities or elsewhere. But the Crown has to satisfy himself as to their abilities.

**Mr. Singer:** In civil actions the choice of an interpreter is up to the litigant or his counsel. It's a little confusing.

**Mrs. Campbell:** With respect, Madam Chairman, I don't think that the test, even for languages, is the only test. There is the test to indicate their competency in the way in which they respond or ask questions. It's an embarrassment to your judges, I think, if you have counsel sitting there saying, "We're familiar with the language and they haven't asked the question that we've put." I think that surely there must be some way of resolving this. A judge can't be an arbiter of whether or not they are using the language adequately, unless he speaks all languages.

**Mr. J. Riddell (Huron):** Madam Chairman, you must pardon my ignorance of this particular ministry, or of matters pertaining to the legal profession. So far I've managed to avoid any conflict with the law—

**Mrs. Campbell:** Not even on the sales tax.

**Mr. Riddell:** My question is, in connection with the appointment of judges. Who appoints the provincial judges and on what basis do you make your selection? And why has there been considerable delay in appointing a judge in Bruce county? The reason I am asking this question is because we are in a position now in Huron where a provincial judge is going to be appointed. I would like to know on what basis you make your selection; who makes recommendations for judges; do you select for an area a judge who comes from that area?

**Hon. Mr. Bales:** First of all the provincial bench and criminal and family division court judges are appointed by the Lieutenant Governor in Council on my recommendation.

Before I make a recommendation to the cabinet, the judge's name is submitted to the provincial judicial council, which is made up of the chief justice of the province, the chief justice of the High Court, Chief Justice Wells, the chief judge of the family court, the treasurer of the Law Society and the chief judge of the county court. All of the information is submitted to them and they consider it at a meeting and give me their opinion.

I am not compelled to follow their advice necessarily, but I always seek their advice on it. With the provincial criminal bench, only persons legally trained are appointed to

that. A number of people have been appointed to the family bench who are not legally trained in the task, but they have not been so appointed recently.

There is a vacancy in Bruce, the judge there resigned as of February, I believe. I receive recommendations from a substantial number of people. If at any time you wish to make a recommendation to me, by all means do so. I go over them all. It isn't a rigid rule, because it couldn't be, but we endeavour, particularly in areas outside the built-up municipal sections, to appoint a person from the area. I think they know much of the background of the district and if there is a suitable person from the area, then I think there is merit to it. I have said before that they are always interviewed by Mr. Russell to get background and other information on them. The material is submitted to the judicial council, and I make it a point before their name is submitted to cabinet that I have an opportunity to interview them as well, and separately.

**Mr. Riddell:** There is no possible way your decision could be swayed by lawyers who get along extremely well with a person who might be appointed as judge?

**Hon. Mr. Bales:** I wouldn't think so. You get lawyers frequently recommending other lawyers in various parts of the province, because after all they are the ones who know their qualifications. I think it is only natural. You are bound to get more recommendations from lawyers than from other people, but still and all I receive recommendations from members of the Legislature and from people in the area. Frequently there are letters that come in on behalf of individuals, mayors or citizens in an area, who knew a person well and write to me in that regard. All of those recommendations go with the submission to the judicial council. And the judicial council is quite free; it makes its own checks and inquiries.

**Madam Chairman:** Shall item 4 carry?

**Mr. Gaunt:** Madam Chairman, may I ask a question: When will the minister be in a position to appoint a provincial judge in Bruce? I think there is some concern being expressed that we should have a provincial judge there. I believe people have been coming in from London.

**Hon. Mr. Bales:** Judge Seneshen from London has been going up there.

**Mr. Gaunt:** Yes, right.



**Hon. Mr. Bales:** I hope I will be able to make an appointment there soon—not immediately, but I hope to make it soon; and if you have suggestions you wish to make to me, I wish you would.

**Mr. Gaunt:** I don't have any suggestions to be honest about it. I may come up with some, if you really insist.

**Hon. Mr. Bales:** But you understand some of the reasons.

**Mrs. Campbell:** Madam Chairman, I have one more question in connection again with the Toronto court—I hate to dwell on that. What is the position on the proposed decentralization of that court? I know that they have been waiting for some time to hear when we were going to have a court in another borough—

**Hon. Mr. Bales:** Are you speaking about family court, Mrs. Campbell?

**Mrs. Campbell:** I am speaking of Scarborough and family. When are we going to get a court away from the—

**Hon. Mr. Bales:** I am hopeful soon. As you may know, with the assistance of Government Services, we found what I regarded as quite a suitable location, and then the owners of the property decided they didn't want to enter into a lease of that part of it. It would have been quite satisfactory.

In looking for others, I have found it difficult to find one, but there is now a new building which, if it goes through, will be quite satisfactory. I am hopeful to establish that one. That is in my view is the first priority in Scarborough. I also need to have one in Etobicoke, particularly in the southern section.

**Mrs. Campbell:** There is no question about that.

**Hon. Mr. Bales:** And I would like to enlarge the one at Doncaster.

**Mr. Singer:** How about North York?

**Hon. Mr. Bales:** Doncaster. You see the court up there, the family court, is located on Doncaster Ave., just north of Steeles.

**Mr. Singer:** Oh, I see. That services North York, does it?

**Hon. Mr. Bales:** That's right.

**Mrs. Campbell:** Is Newmarket going to continue as part of the function of 311?

**Hon. Mr. Bales:** Yes, for the present; but ultimately I can see it should be a separate one.

**Madam Chairman:** Shall item 4 carry?

**Mr. Singer:** Wait! Oh that's just item 4. You are going to deal with the two—

**Madam Chairman:** Shall vote 1206 carry?

**Mr. Singer:** What about this question of allowances to Supreme Court judges and allowances to judges while they are both statutory. What are we giving the judges now? There was quite a fuss about that.

**Hon. Mr. Bales:** Well,—

**Madam Chairman:** We went over that, didn't we?

**Hon. Mr. Bales:** No, I don't think we did. No, that would be salaries paid to the provincial judges. The Supreme Court's were changed, and it's \$3,000—

**Mr. Singer:** Changed from \$6,000 to \$3,000; which delighted many of the Supreme Court judges.

**Hon. Mr. Bales:** That is right. And the county are paid \$2,000.

**Mr. Singer:** Well, is the first vote Supreme only and the second vote county?

**Hon. Mr. Bales:** Yes, apparently. Let me take a look at it.

**Mr. Singer:** Forty-two Supreme Court judges—is that the right number?

And 101½ county court judges.

**Mr. Lawlor:** That one-half.

**Hon. Mr. Bales:** Don't forget, the chief judge gets a different allowance and the senior judge in York gets a different allowance.

**Mr. Singer:** Has the concern of the Supreme Court bench dissipated a little? Have you heard continuing complaints from them?

**Hon. Mr. Bales:** No, quite frankly, I haven't. You know the changes we made with reference to the Supreme Court last fall. I think you concurred in it, as a matter of fact.

**Mr. Singer:** No, I didn't.

**Hon. Mr. Bales:** You didn't?

**Mr. Singer:** Which one—the reduction of those allowances?



**Hon. Mr. Bales:** No, the supernumerary.

**Mr. Singer:** Oh, the supernumerary. Yes, some of my colleagues were a bit more concerned about it than I was.

**Hon. Mr. Bales:** No, but you were very constructive.

**Mr. Singer:** We make no allowance to the federal judges, I gather.

**Hon. Mr. Bales:** No. We haven't got anything to do with that.

**Mr. Singer:** Nor is there any kind of contemplation of that, I guess, because they don't really, by any stretch of anybody's imagination, give any provincial—

**Hon. Mr. Bales:** They don't deal with provincial matters at all.

**Madam Chairman:** Will vote 1206 carry then?

Vote 1206 agreed to.

On vote 1207:

**Madam Chairman:** Page J22, vote 1207, item 1, Assessment Review Court.

**Mr. Lawlor:** Madam Chairman, on this whole vote, I wish to place a motion, and possibly force a vote, on a procedural matter, on a point of order. In terms of this vote, on the third matter down, the Criminal Injuries Compensation Board, we have no report this year; and secondly, on the fourth item, we have no report of recent date. I have in my hand at the moment a report of the Ontario Municipal Board as of Dec. 31, 1972, which was tabled a few days ago.

I say that we ought not to go forward at this time with these votes, touching boards and agencies, until we have the reports which are long outstanding. The most recent report I have of the Criminal Injuries Compensation Board is at the end of 1971. How can we, with merit, and with our usual thrust and forthrightness, handle votes under this particular head without the reports that should be available to us? And I'm moving partially to test this committee—I don't think we have ever had a vote in the committee; we'll see what happens. I want you to ring the bells, or whatever you do in these circumstances, and I am moving that we adjourn this vote to a future date, after which all these reports are placed in our hands.

**Mrs. Campbell:** Madam Chairman, before that matter comes to a vote, may I be re-

corded as being an alternate for Mr. Braithwaite—it is so funny. Oh, I'm still with Mr. Worton, I guess.

**Madam Chairman:** I am sorry this has to be declared at the committee meeting, that's why I always—

**Mrs. Campbell:** That's why we have this circus, so that I can't be here.

**Madam Chairman:** I announced this at the very commencement—

**Mrs. Campbell:** I would think, Madam Chairman, that when you have an obligation in the House, you certainly ought to be able to record yourself when you are released from your duties there to come here. I think it is quite improper that I should be denied that right.

**Mr. Singer:** Of course it's ridiculous.

**Madam Chairman:** Do you have a seconder for your motion, Mr. Lawlor?

**Mr. Lawlor:** My motion is recorded. Have I a seconder?

**Mr. Singer:** It's in committee. It's not necessary.

**Mrs. Campbell:** I don't see why I should not be recorded at this point.

**Madam Chairman:** Mr. Lawlor, I believe that your motion is out of order.

**Mr. Lawlor:** A motion to adjourn at any time is in order. It's not debatable.

**Madam Chairman:** In terms of its content, I thought you were proposing a motion about the adjournment, I am sorry.

**Mr. Lawlor:** I am moving to adjourn.

**Madam Chairman:** I see, all right.

**Mr. Lawlor:** I am giving you my grounds for doing so.

**Madam Chairman:** Shall the motion be put? All those in favour of Mr. Lawlor's motion? Three people here have the right to vote.

All those—

**Mrs. Campbell:** Are you still ruling I don't have a right to vote?

**Madam Chairman:** I am sorry, you don't have a right to vote because you were not registered in advance of the meeting.

**Mrs. Campbell:** On a point of order, that is utter rot, Madam Chairman.

**Madam Chairman:** Now, just a moment, please. I'll complete the vote.

**Mr. Martel:** No, on a point of order, before you take the vote, Madam Chairman, with the greatest of respect. Maybe you could explain for us how in the Sam Hill a member who has to speak in the House can come down here and be recorded as a representative with voting rights during the committee period, and be speaking in the House at the same time?

**Madam Chairman:** Well, Mr. Martel, the rules for the standing committee on estimates and on standing committees that deal with money estimates are that a member wishing to vote must be—if they are substituting, substitutions are permitted in advance if they are so stated prior to the commencement of the proceedings. That is the rule—

**Mrs. Campbell:** Madam Chairman, I have so stated in advance.

**Madam Chairman:**—and so I am abiding by the rule and I have so stated at the very beginning of these estimates, when I set out the procedures. Furthermore, and you are well aware, Mrs. Campbell, this is the first time you have not been here at the commencement of proceedings—

**Mrs. Campbell:** It is indeed.

**Madam Chairman:** Every single meeting I have announced who is substituting for whom, and the whole point of this was for voting purposes.

**Mrs. Campbell:** You certainly have not. Madam Chairman, I have been here consistently and recorded. And I stated early that I would be substituting for Mr. Worton. I have done it every time to meet with your rules. But surely the people of this province shouldn't be denied the opportunity to be heard through an elected representative if the representative was otherwise engaged on government business. If I was doing something whimsical—

**Madam Chairman:** I am sorry, Mrs. Campbell, there is just no point in berating me for rules which were established by rules committee of the House long before this committee sat. And so—

**Mr. Martel:** For my enlightenment, would you quote the rule?

**Mrs. Campbell:** What is the rule, please?

**Madam Chairman:** The rule is that if the committee—

**Mrs. Campbell:** Where is it, please?

**Mr. Martel:** Would you quote the rule?

**Madam Chairman:**—sits on money estimates, this committee will admit substitutes if substitutes are declared before the commencement of proceedings, and that is a rule.

**Mr. Martel:** I appreciate your paraphrasing—

**Mrs. Campbell:** What is the rule?

**Mr. Martel:** Would you read the rule for me?

**Madam Chairman:** No, it is not in these orders of—

**Mr. Martel:** It's not in the orders?

**An hon. member:** Well, then, where is it?

**Madam Chairman:** It is in the motion that establishes the committee.

**Mr. Martel:** Well, then, would you read that motion for us?

**Madam Chairman:** I haven't it with me, I am sorry.

**Mrs. Campbell:** Well, then. I don't think, Madam Chairman, that I am prepared to accept it. I was going to appeal this ruling.

**Mr. Martel:** Well, could the clerk get us a copy of the order?

**Madam Chairman:** I can get a copy if you wish.

**Mr. Martel:** Yes.

**Hon. Mr. Bales:** Before they get it, might I suggest, Madam Chairman, that we get a copy when we come back after supper and in the interval you get one.

**Madam Chairman:** But nevertheless, I have been abiding by these procedures—

**Mrs. Campbell:** And in the interval you take your vote.

**Madam Chairman:**—and I think that all the members of this committee are aware that I have been abiding by the procedures. I have been following them very carefully, as was done last year. Mostly all of you are members from last year's committee so that

you are most certainly familiar with them. Mrs. Campbell is not, apparently, although I thought she understood why she was meticulously declared a substitute each time.

**Mrs. Campbell:** I know that you did it, but I didn't know the basis—

**Madam Chairman:** Meticulously, I never overlooked you—

**Mrs. Campbell:** —upon which it was done, nor was it stated.

**Madam Chairman:** Right. I am sorry, but if you are not present, I cannot declare you a substitute. I have to have the body before me.

Now—

**Mrs. Campbell:** The body is here.

**Mr. Singer:** Let's have the vote after supper.

**Mrs. Campbell:** Well, then, postpone the vote till after supper.

**Madam Chairman:** We now have a vote before us. We have had the vote from the "ayes" and I am asking now for the vote from the "nays."

Those voting against the motion?

The motion is lost.

**An hon. member:** Mr. Nixon (Dovercourt) is not qualified to vote.

**Madam Chairman:** He is a member of the committee.

**Mr. Martel:** All those men are members of the committee?

**Madam Chairman:** They are indeed.

**An hon. member:** Yes.

**Mr. R. B. Beckett (Brantford):** Bona fide!

**Mr. Martel:** Oh, my gosh.

**Madam Chairman:** We'll now proceed with item 1, of vote 1207, assessment review court.

**Hon. Mr. Bales:** Can I just explain to the members. Under the Ontario Municipal Board Act there is a statutory requirement to provide a report and that has been. Under the others, there is no statutory requirement for a report. We endeavour to get it. I do not have it or I would have produced it for the members at this time.

Normally some form of report has been put together by these various boards in each year, but it is not a requirement that they have to do so and for that reason it is—

**Mr. Singer:** Could you tell me, sir, then, if it is not a requirement and it is not here now—and I agree with Mr. Lawlor—why don't we have the individual heads of these boards

**Hon. Mr. Bales:** We dealt with that earlier and I have taken the position, at least this year, that I would deal with these various matters, boards and commissions, as the minister. If this were in the House, Mr. Singer, the minister would be dealing with it entirely, not the heads of those particular boards.

**Mr. Singer:** I wasn't in on that previous discussion, but I have always felt that one of the purposes of having an estimates committee was to allow those senior officials an opportunity to—

**Hon. Mr. Bales:** I felt that this year I would deal with it in that particular way. I told Mr. Renwick today I would be glad to consider that kind of change and submission—

**Mr. Lawlor:** Let me clear one other matter up. The Criminal Injuries Compensation Board always publishes a report. I don't see anything in the reports as a mandatory feature about that.

**Hon. Mr. Bales:** It is prepared as expeditiously as the board can in the year, but it has not as yet been prepared.

**Mr. Lawlor:** Is it mandatory that it do so?

**Hon. Mr. Bales:** No, it is by custom and I encourage the custom.

**Mr. Lawlor:** It should be in legislation.

**Madam Chairman:** Shall item 1 carry?

**Mrs. Campbell:** No, Madam Chairman—at least, I may speak, I take it?

**Madam Chairman:** Any member may speak.

**Mrs. Campbell:** Thank you. On the question of the assessment review court, could the minister enlighten me as to why this function is in this ministry? May I just explain my concern?

I do not understand why anybody who knew anything about municipal government, for example, would splinter assessment into three different functions plus three different ministries for efficiency. I understand that one of the holdups in getting information to



municipalities for them hopefully to be able to fix the mill rate before the end of the year is the function of this particular court.

I wonder if there is any real explanation why the whole of assessment matters, since they are so vital to municipal governments, shouldn't be in one pocket—I suppose pocket is a bad word—in one ministry? What is the holdup in this particular area?

**Mr. Singer:** My recollection is this is the first occasion on which the Attorney General's estimates have been held in committee. The rest of the time it was done upstairs—

**Hon. Mr. Bales:** No, it was done last year.

**Mr. Singer:** Were they done here last year?

**Hon. Mr. Bales:** Yes, my friends advise me that Mr. Wishart did it here, too.

**Mr. Lawlor:** Don't you remember when—

**Mr. Singer:** Yes—no, didn't Mr. Wishart have all his people with him?

**An hon. member:** Oh, yes, on one occasion.

**Mr. Singer:** Yes, he did.

**Hon. Mr. Bales:** On one occasion apparently he did and apparently the others are—

**Madam Chairman:** Shall item 1 carry?

**Mr. Lawlor:** No, I want to say a word to the minister about this. With respect, Mr. Minister, it seems to me you are right about the Board of Negotiation—it's constituted under section 27(1) of the Appropriations Act, but the Land Compensation Board, under section 30, subsection (4) of the same Act, does make provision for a report.

Now, I have to concede that it isn't mandatory, it's fairly loose wording. At the same time, I—

**Hon. Mr. Bales:** Can I just read it?

**Mr. Lawlor:** Yes, okay.

**Hon. Mr. Bales:** It just says: "The board may prepare and periodically publish a summary of such of its decisions and reasons therefore as the board considers to be of general public significance." We do publish them but that's not really a report.

**Hon. Mr. Bales:** With the reorganization of the government, it was felt that these various boards and commissions, being appeal boards and so on, should be located within this ministry. You say why shouldn't they

all be in one area? Frankly, I think it is a good thing that the Assessment Review Court should not necessarily be with the ministry which deals with assessment day by day because it is to review what somebody else has done.

**Mrs. Campbell:** But it slows the process terribly.

**Hon. Mr. Bales:** This review court has handled its work very expeditiously. When it was established some few years ago, there was a tremendous number of appeals outstanding and in 1972 all assessment appeals and tax applications received by the court's offices throughout the province were processed and dealt with. They have had a tremendous number.

Can I give you some statistics because I know you are interested? Metropolitan Toronto: In 1970, there were 63,000 appeals; in 1971, 60,006; in 1972, 60,168. It took 502 sittings of that court last year to deal with them.

**Mrs. Campbell:** Is it not a fact, Madam Chairman, that at this point the policy of government has been that, to move things forward, assessment itself is rather frozen and that the assessment court is dealing basically with new assessment?

May I ask what is going to happen or what planning and preparation there is for it when this work is expanded? If, in the middle of May, the municipalities can't fix a mill rate, under those circumstances—partly because of the functioning of this particular board—what is going to happen when you get into full major assessment changes? Then you are going to get not 60,000, but 160,000 probably.

**Hon. Mr. Bales:** We are presently working on that whole matter and have been for some considerable time. Let's look at these figures for the whole of the province and the work that this particular board deals with.

Last year, in all the various regions, and there are seven of them, the court dealt with a total of 148,811.

**Mrs. Campbell:** Yes. Madam Chairman, my concern is not with what the court has dealt with but what the municipal position is. Fortunately this year with all the other chaos, they probably haven't been put out too much by this; but if this experience continues they may never set a general mill rate next year. They can't get the information.

**Hon. Mr. Bales:** One of the areas that is of great concern is the appeal from this to the county court.

**Mrs. Campbell:** Yes.

**Hon. Mr. Bales:** And from there to the OMB.

**Mrs. Campbell:** Yes.

**Hon. Mr. Bales:** That matter is being dealt with because, as I said in my initial statement earlier, we propose to take out that appeal to the county court. There are some 7,000 cases and they are usually very contentious matters. There is a holdup in that kind of thing.

**Mrs. Campbell:** Madam Chairman, it is one of the reasons people did not wish to see this function go to this government. They recognized the fact that it was going to be terribly difficult for them to get information and it has proved to be a fact.

**Hon. Mr. Bales:** I want to give Mr. Lawson full credit. I think he has done a very fine job since he took over that responsibility.

**Mrs. Campbell:** I think we should deal with the municipalities and see how their

treasurers feel about it because they are the ones who are up against the velvet. If they can't get the information on which to base a mill rate—I see, Madam Chairman, that it is after 6 o'clock. I suppose I can't move a motion either but perhaps somebody else would like to so that we can come back tonight.

**Madam Chairman:** It isn't necessary, I believe we can recess. Shall item 1 carry?

**Mr. Singer:** No.

**Madam Chairman:** All right. Shall we recess then until 8 o'clock?

**Mrs. Campbell:** Madam Chairman, in view of the precarious state upstairs, is it possible for me to be recorded now for the evening session or do I have to be physically here at 8 o'clock before I can get myself recorded?

**Madam Chairman:** Before the meeting starts.

**Mrs. Campbell:** Tonight? I never have heard such nonsense in my life.

It being 6 o'clock, p.m. the committee took recess.

## CONTENTS

Tuesday, May 8, 1973

Courts administration programme, concluded .....	S-185
Administrative tribunals programme .....	S-213
Recess .....	S-217







# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Attorney General**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Tuesday, May 8, 1973**

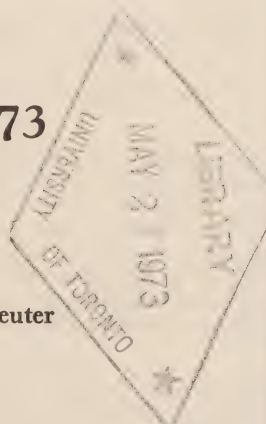
**Evening Session**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 8, 1973

The committee resumed at 8 o'clock, p.m.

## ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1207.

**Madam Chairman:** Mrs. Campbell and gentlemen, the meeting will come to order. The substitutes I have this evening are, Mrs. Campbell for Mr. Worton; Mr. Lawlor for Mr. Stokes; Mr. Carruthers for Mr. Parrott; Mr. Gilbertson for Mr. Walker.

Before we go on, we're on to the last vote in the estimates of the Attorney General and it would appear to me that if we carry on as we have for the last few days we will have this vote finished this evening. In the event that we do not, I think we will sit tomorrow morning at 10 o'clock and finish that vote so that these estimates of the Attorney General will be concluded.

**Mr. P. D. Lawlor (Lakeshore):** Madam Chairman, we cannot. We have a private bills committee on which a number of us are pre-empted. I can tell you that we have other things going at the same time.

**Mr. V. M. Singer (Downsview):** I think also the select committee is going on.

**Mr. Lawlor:** I think we'll finish tonight, personally. Let's see what happens, but don't let us try to set it now. Our responsibilities are very diverse.

**Madam Chairman:** I agree with you, but Wednesday is the day for standing committees.

**Mr. Lawlor:** I'm the member for the New Democratic Party who attends private bills committee every Wednesday morning and I am anticipating that I will be there tomorrow morning. I wouldn't want to say that private bills had priority over the Attorney General, but that's where I am supposed to be.

**Hon. D. A. Bales (Attorney General):** Mr. Lawlor, I won't be offended.

**Mr. Lawlor:** I know you won't.

**Mr. Singer:** In addition to the private bills committee, I understand that the select committee which is investigating certain Hydro contracts will commence its sittings.

**Hon. Mr. Bales:** I don't see anybody here who is a member of that.

**Madam Chairman:** On the point of order which was raised before the dinner recess, I would refer you to Votes and Proceedings for the day, Monday, March 26, on page 2. The reference there is that substitution will be permitted on any committee while considering estimates referred to it, provided that notice of the substitution is given to the chairman of the committee prior to the meeting.

It is most certainly there. I assure you that I'm not interested in rules any more than you are and I would not have invoked that ruling if it had not been in existence.

Now, may we proceed, please, with page J22, vote 1207, item 1, Assessment Review Court. I had Mrs. Campbell speaking to this. Were you concluded, Mrs. Campbell, or had you other points to raise?

**Mrs. M. Campbell (St. George):** I had no other points, Madam Chairman.

**Madam Chairman:** Mr. Riddell? Mr. Good? Go ahead, Mr. Riddell.

**Mr. J. Riddell (Huron):** Yes. Before we adjourned we were talking about assessment appeal. I would like to know what the logic is in having an assessment appeal out of the municipality or out of the county where the assessment is actually taking place? In other words, if you appeal an assessment in my own riding of Huron it is dealt with in Newmarket.

**Hon. Mr. Bales:** No, no!

I understand the problem, Mr. Riddell. Under the Assessment Review Court the province is divided into seven regions for efficiency purposes. The assessment appeals are not dealt with there. I know your region comes, for example, in Newmarket—I think you raised a question about this in the House, I'm not sure.



Mr. Riddell: No, I didn't.

Hon. Mr. Bales: Well, someone did. The paperwork is done through Newmarket or through the central office of the region, but the appeals are not. They are heard in the area.

Mr. Riddell: Am I correct in assuming, then, that the person who is hearing the appeal has to travel to Huron county?

Hon. Mr. Bales: That's right.

Mr. Riddell: Then there's somebody going to Huron county who is not familiar, in my way of thinking, with land values in that particular area.

Hon. Mr. Bales: We have assessment review officers located throughout the province. The central office, the registrar of the assessment review court for the area—there are seven of them in all and I'll give you the regions—handles the scheduling, the paperwork, the appeals and that kind of thing. The hearings are in the area itself.

The areas are eastern Ontario; Lake Ontario—I don't have a map here but I could get it; I would be glad to get it and show it to you so you could see it—Metro Toronto; central; Grand River-Niagara; southwestern; and northern. It's been by centralizing these things from an administrative standpoint that the Assessment Review Court has been able to handle, as it has last year, nearly 150,000 appeals.

It is a little confusing. This may be a little informal but I would be very pleased to arrange for you to meet Mr. Lawson and see the whole thing and have him explain the procedures to you. You will have questions about it from your area—for those of us who may live in Metro, it's a more compact situation but for those who are outside, it is more difficult. If it would be helpful to you, I'd be very pleased to arrange it.

Madam Chairman: I think Mr. Good is next.

Mr. E. R. Good (Waterloo North): Yes. First of all, before I talk about the Assessment Review Court—not being a member of this committee it may be presumptuous to make this remark—but I've never heard of a meeting being called for a committee of any sort without a consensus among the members of the committee; this is regarding your little discussion about tomorrow morning's meeting.

I'd like to follow up what the member for Huron has said. That is the fact that the registrars across the province are the ones to whom the appeal has to go. You'll note on the assessment sheet which comes to the person that the registrar's name is on one side and the regional assessment officer or director is on the other side.

In most cases people are aware that assessment, say for Grey and Bruce counties, is done out of an Owen Sound office; assessment for Waterloo county is done out of Galt; assessment for another area is done out of that particular area. But very few, I should say, realize that the matter of appealing assessment must be made through the registrar.

What I would like to know is if a person should mail in his assessment notice—on the back as you are aware it says: "If you wish to appeal this assessment you must do so in writing within 14 days to the registrar of assessments." From the experience I've had, and I've discussed this with various people especially in Bruce county where my cottage is situated, they are aware of the regional assessment office but no one has a clue that the registrar of assessment appeal is located, for instance for Grey and Bruce counties and for Huron, in Newmarket. People in the Kitchener-Waterloo area have to appeal their assessment to Cayuga; they say: "Where's Cayuga?"

Mr. R. Haggerty (Welland South): Up the Grand River, isn't it?

Mr. Good: That's the first thing people say: "Where is Cayuga? And why should we have to appeal our assessment to Cayuga?" I remember when this went through in the legislation, I questioned why you needed these registrars. These are the registrars in the areas across the province?

Hon. Mr. Bales: These are the registrars.

Mr. Good: As I understand it, it's to get the appeals together to arrange for the review court to hear in the various areas. Why couldn't this be made simpler for the people involved? You appeal your assessment to the regional assessment office and let them do whatever they want to do, if they have to forward it to the area registrar or something. I think there must be a great deal of confusion in this business of appealing to the registrar who lives in another place. I'm sure that a person living in Zurich or some of these small places in Huron county must be utterly frustrated to

think they have to appeal their assessment to Newmarket. They say: "Newmarket?"

**Hon. Mr. Bales:** They only file it there.

**Mr. Good:** What I want to ask is what would happen if a person appealed his assessment and sent it in to the regional office? Would that appeal be disqualified before it even got anywhere?

**Hon. Mr. Bales:** They would forward it.

**Mr. Good:** Pardon?

**Hon. Mr. Bales:** They would forward it.

**Mr. Good:** They would forward it?

**Hon. Mr. Bales:** Surely.

**Mr. Good:** I'm glad to hear that.

**Hon. Mr. Bales:** You can't cope with 150,000 appeals without having some central area to schedule them and to know how many to hold in a certain area. They've got to correlate all the material. They do a great job, but it is difficult; and it is only by breaking it down into regions that you can do that.

**Mr. Good:** Well, I would simply say that it makes the Assessment Review Court that much more remote from the people who are appealing their assessments.

**Hon. Mr. Bales:** But the important thing, Mr. Good, is where is it held?

**Mr. Good:** I agree that the Assessment Review Court will eventually get to the area—

**Hon. Mr. Bales:** It must be held in that person's own home area. That is the important thing to me.

**Mr. Haggerty:** How many steps of appeal are there? Does it not go up to the Ontario Municipal Board?

**Hon. Mr. Bales:** We are discussing the Assessment Review Court. As I said before the dinner break, it goes from there to the county and from there to the OMB.

**Mr. Haggerty:** Well, why the OMB?

**Hon. Mr. Bales:** This is the way the legislation has been established in the past, Mr. Haggerty. But I said earlier to you as well that I'll be bringing forward legislation in this session to do away with appeals to the county.

**Mr. Singer:** You use the word "county" to mean the county court judge, don't you?

**Hon. Mr. Bales:** The county court judge, that's right. It seems to be an anomaly to go from an Assessment Review Court to the judicial court in the form of the county court, and from there to what I call the administrative tribunal, with no disrespect, the OMB.

**Mr. Haggerty:** And then back again to the courts if they want to go higher?

**Hon. Mr. Bales:** Well, on a point of law.

**Mr. Good:** If I might make the point, it is not very satisfactory to the average citizen that he has to appeal his assessment to such a remote place, if not a remote person. This brings me to the point—

**Hon. Mr. Bales:** But we pay income tax to a very remote place too.

**Mr. Good:** That's all right, that's established; the people know Toronto and Ottawa. You would be better to appeal your assessment to Queen's Park, I suppose; at least people would know where their appeal was going. But when people in Kitchener or Waterloo send their appeal to Cayuga, they say, "Cayuga? Where is Cayuga?" This is not very satisfactory—

**Hon. Mr. Bales:** You know very well where Cayuga is. It is a very fine place.

**Mr. Good:** Oh I know where it is, but there are some people who don't know.

All right, we have the situation in Bruce county, which went on market value assessment for taxation this year. I don't think that is right either that they should bring out the assessment at such a late date for taxation in that particular year. I understand there are about 2,700 appeals in Bruce county, some of which are going on at the present time. And the appeals being held now reflect only the first stage of market value assessment. Might I suggest to the minister, through you, Madam Chairman, that when market value assessment comes in in 1974 for 1975 taxation, the number of appeals could well be a million and a half instead of 150,000. How you intend to cope with this, I don't know; but I think it had better be something that is a little more closely associated with the people in the area.

Another thing that I think is not right—and granted this is perhaps not within your jurisdiction, but certainly it is relevant to the



appeal court—is that the arguments used by anyone appealing his assessment may only be those arguments that relate to the comparable value of properties in the immediate area surrounding the property under appeal. That means that if everyone in your area is over-assessed, it is just too bad. There is nothing you can do about it.

This is perhaps directly related to dealing with appeals in the city of Toronto. But how can there be any equity in that type of argument for a cottage owner up on a back concession in Lindsay township in the Bruce Peninsula? He can only relate to others in the area—and perhaps there has been only one property sold within the area in the last two years.

These are things which I think are purposely designed to work against the person who is making the appeal, in my view. Of course, I have argued these points previously in another department. But I think the fact that the assessment review court is now under the Attorney General probably gives it more of a judicial bearing. But in one sense it may work against the small property owner who wants to appeal his own assessment. I hope that the minister will do everything in his power to keep these Assessment Review Courts on an informal basis, at least when they are dealing with a single property owner who sees his assessment rise 56 times or 41 times what it was as has happened now in some of the cottage properties up in the Bruce Peninsula.

People feel they can't afford legal counsel to appeal this kind of assessment, but I certainly hope that proper evaluation is being given to the magnitude of the problems that are going to arise when the assessment review courts have to deal with the new market value assessment, because people are just going to be frustrated to no end. In one sense, when you are appealing an assessment before your new mill rate is set, it almost renders the whole assessment process useless.

**Hon. Mr. Bales:** Mr. Good, I don't want to repeat myself, because the other members heard me, but inadvertently you weren't here this afternoon. We are concerned about the problem you have raised, and we have been working for some time to develop policies and ways and means of dealing with it.

On the other point—and I am not being facetious; I am being quite serious—I am rather an informal type of person, and I don't like formal hearings, I like to get rid of that atmosphere, particularly at the Assessment Review Court. I would do all I could to keep

the kind of an atmosphere where the people making the appeals there felt at home and could explain their point of view just as well and with as much ease as possible.

**Mr. Good:** One other point, Madam Chairman: Could the minister inform me what success there has been with the new procedure whereby writeoffs, refunds and things of that nature no longer have to be taken to the Assessment Review Court? Or are they still taking them there?

**Hon. Mr. Bales:** You know about the change in legislation last year?

**Mr. Good:** Yes, to the Municipal Act.

**Hon. Mr. Bales:** It has been accepted very well in many parts of the province, but not in the highly developed municipal areas; they didn't like it and they didn't want it.

**Mr. Good:** They are still going to the assessment review court, are they?

**Hon. Mr. Bales:** Yes.

**Madam Chairman:** Thank you, Mr. Good. Mr. Singer is next.

**Mr. Lawlor:** Madam Chairman—

**Madam Chairman:** No, Mr. Singer is next, Mr. Lawlor.

**Mr. Singer:** I must admit I plagiarized some of Mr. Lawlor's research work—

**Hon. Mr. Bales:** He never does that.

**Mr. Lawlor:** That's very kind of you. I won't sue you for slander.

**Mr. Singer:** Thank you, sir. Without stealing the member's statistics, which he has more readily available, I am puzzled at the very substantial figures in this estimate—about \$1.3 million. The amount for salaries is lower than it was last year, but the amount for services is perhaps 100 per cent higher. Could you give us a more detailed breakdown of those figures than the ones in the estimates on page J23?

**Hon. Mr. Bales:** The tribunals come under this; they don't come under salaries because, as you know, they are paid on a per diem basis.

**Mr. Singer:** Do they come under services or salaries?

**Hon. Mr. Bales:** They are not under salaries. The Assessment Review Courts really are under services. The increase there



is very substantial because we anticipate more hearings. It's an increase of \$168,000.

**Mr. Singer:** How do you break down the figure of \$434,000, for instance? How do you arrive at that figure?

**Hon. Mr. Bales:** I am going to ask for a little assistance from Mr. Pukacz on this. By way of helping, I will say that there is a total increase of \$168,000. Salary revision probably is reflected there; it is \$113,700.

**Mr. Singer:** But your salaries are down, compared with last year, and your services are away up.

**Hon. Mr. Bales:** I have a little memo before me with salary revisions from Mr. Pukacz. It deals with what people receive at various—categories, is that right?

**Mr. E. K. Pukacz (General Manager):** That's right. In the budget of 1972-1973, salaries were \$593,800. In the 1973-1974 estimates, it is \$641,800.

**Mr. Singer:** I thought salaries in 1972-1973 were—

**Mr. Pukacz:** No, no; they are higher—

**Mr. Lawlor:** It is \$818,800!

**Mr. Pukacz:** Yes, they are higher. Salaries are higher. \$593,800 in 1972-1973.

**Mr. Singer:** What did you ask for? Did you ask for \$818,000 last year and only spent \$500-odd thousand? In 1972-1973, didn't you ask for \$800-odd thousand?

**Hon. Mr. Bales:** It was \$869,000.

**Mr. Pukacz:** In 1971-1972 the actual was \$526,700, then 1972-1973 was \$593,800, and 1973-1974 is \$641,800.

**Mr. Singer:** Yes, but I saw the figures.

**Mr. Lawlor:** Yes, the 1970-1971 figures, though, are \$871,000; a tremendous drop.

**Hon. Mr. Bales:** Mr. Singer, the actual in salaries in 1971-1972 was \$526,000. In 1972-1973 budget it was \$593,000—the forecast amount. I don't have the actual figure yet for 1972-1973—the forecast figure was substantially larger, \$869,000. By reason of the large increase in the number of courts in the per diem—I was wrong when I said it wasn't salaries—that is where you have got an increase. We don't anticipate quite as many this year, but we have put \$641,000 in for salaries and wages.

**Mr. Singer:** We seem to be talking at cross purposes. The document I have here in my hand through the courtesy of Mr. Lawlor—I give him full credit—is entitled, "Estimates, 1972-1973"; and on page 115 it says: "Standard accounts classifications, Assessment Review Court salary and wages —\$818,000—"

**Mr. Pukacz:** May I explain, because he put—

**Mr. Singer:** Because that's what you put in—

**Mr. Pukacz:** Yes, yes; I will be able to explain it. He combined the salaries of full-time staff and casual staff with salaries, fees which are paid to part-time members of the court; this is where the confusion arises.

Why I note it is because when he gave us the forecast up to the end of the year he has shown \$869,500 as a forecast for 1972-1973, but he has shown that only under the services where we really charge the part-time fees and—

**Mr. Singer:** Mr. Pukacz, I have lost you again. A forecast of \$869,750 is what you said?

**Mr. Pukacz:** Yes.

**Mr. Singer:** Now, even if you add salary and wages and services together, at that point you get \$998,800.

**Mr. Pukacz:** That's right, but they have charged \$190,000 to services at the same time.

You see, in other words, the total amount for salaries and services would be \$1,059,500. So it is—

**Mr. Singer:** Which year are you talking about?

**Mr. Pukacz:** The year 1972-1973.

**Mr. Singer:** No, but that isn't what this document says.

**Mr. Pukacz:** Well, then I don't know where you are—

**Mr. Singer:** This document says \$818,000 are in salaries and wages; and services \$190,000. If my quick arithmetic is meaningful at all, that totals to \$998,800.

**Hon. Mr. Bales:** Can you perhaps help us by showing us that document?

**Mr. Singer:** Yes, sure. It's the estimates of 1972-1973, a very secret document.

**Mr. Pukacz:** You are quoting the Ontario Municipal Board and we are talking about—

**Mr. Singer:** No, no, no, no, no! Let's look again. I am not quoting the Ontario Municipal Board.

**Hon. Mr. Bales:** You know I have got implicit faith in Emil Pukacz. I have had—

**Mr. Singer:** I have too, but he's confusing me.

**Mr. Pukacz:** No, no; I am right. If you wouldn't mind then I can show you what has happened—

**Mr. Singer:** All right. Tell us!

**Mr. Pukacz:** Yes. So, against \$818,800 the actual salaries paid were \$869,500.

**Mr. Singer:** But you paid more than that. You paid \$50,000 more.

**Mr. Pukacz:** That's right—because of revision of salaries.

**Mr. Singer:** All right. Okay.

**Mr. Pukacz:** And against services, \$190,000; they actually paid \$190,000 as in their forecast.

**Mr. Singer:** Okay, so that was right. You are up \$50,000 more, so that takes you \$50,000 over a \$1 million.

**Mr. Pukacz:** That's right.

**Mr. Singer:** So that's \$1,050,000.

**Mr. Pukacz:** That's right, if you take the two figures together.

**Mr. Singer:** Are you telling us now that these two figures, as they were forecast in 1972-1973, really have no great significance in the different kind of forecasting in 1973-1974? It is exactly the same thing so that what you do to get the total is to add the two figures together.

**Mr. Pukacz:** What happened is, in 1973-1974 we have estimated part-time members under services rather than under salaries. Instead of estimating \$190,000 as it was here, we have estimated \$434,000 in services for 1973-1974.

**Mr. Lawlor:** In short, you have taken the part-time out of the salaries and put them into the services.

**Mr. Pukacz:** That's right.

**Mr. Singer:** Only part of the part-time, but not all of the part-time.

**Mr. Lawlor:** Not only part, of the part-time.

**Mr. Singer:** Only part of the part-time.

**Mr. Pukacz:** There are only two full-time members of the board.

**Hon. Mr. Bales:** By and large, on a simple basis, part-time per diem members of the board are this time classified under services rather than under salaries.

**Mr. Singer:** If I understand what I think I am now being told; you take the figure under salaries and wages and the figure under services in both years, and add them together to get any reasonable comparison.

**Mr. Pukacz:** That's right.

**Mr. Singer:** So in 1972-1973 you had \$1 million, and in 1973-1974, you are asking for \$1,085,000.

**Mr. Pukacz:** That's correct sir.

**Mr. Singer:** Could you tell us, to simplify it for rather obtuse people like myself, wouldn't it have been better if you had put the two figures together in the estimates so that we could have an immediate comparison instead of being confused from one year to the other? Could you have brought them together?

**Hon. Mr. Bales:** Mr. Singer, may I be honest? Do you agree we have to follow directions of Management Board?

**Mr. Singer:** If you are doing that, then either you didn't follow them last year, or you are not following them this year.

**Hon. Mr. Bales:** They gave us new directions, Mr. Singer.

**Mr. Singer:** Wherein do the directions differ?

**Hon. Mr. Bales:** Part-time go under services and salaries and wages are full-time.

**Mr. Singer:** All right!

**Hon. Mr. Bales:** That may make some sense.

**Mr. Singer:** I haven't grasped it that quickly!

**Mr. Lawlor:** Surely part-time people couldn't account for that enormous difference?

**An hon. member:** Two part-time board members.

**Mr. Pukacz:** Board members!

**Mr. Lawlor:** There is an enormous difference between the figures.

**Mr. Pukacz:** I might perhaps explain that—

**Hon. Mr. Bales:** You add them together.

**Mr. Haggerty:** Is that sufficient members?

**Mr. Singer:** You just took two out of one and put them in the other, for a \$200,000 difference, on a part-time basis.

**Hon. Mr. Bales:** I don't want to confuse people and try to answer too many questions at once, perhaps we could—

**Mr. Lawlor:** I like being confused.

**Mr. Singer:** I am confused now.

**Hon. Mr. Bales:** I thought I had got it all straightened out.

**Hon. Mr. Bales:** Now we have been doing very well.

**Mr. Haggerty** asked a question and I started to answer him, and I am afraid I lost the other one.

**Mr. Haggerty's** question to me, for all members, was: "Have you got enough members of the Assessment Review Court?" My answer to that is yes, in most parts of the province; but in your particular part, **Mr. Haggerty**, in the Niagara region, if you have some people whom you feel would do a good job, if you care to recommend them to me, I would be glad to consider them.

**Madam Chairman:** **Mr. Lawlor**, I believe you are next. And we have just sent out to find out why the bells are ringing.

Interjections by hon. members.

**Mrs. Campbell:** Isn't that why the bells are rung?

**Madam Chairman:** It could be a quorum; it could be a vote, I don't know.

**Mr. Singer:** I am not quite finished, if you are going to—

**Madam Chairman:** I am sorry. Let **Mr. Singer** continue then, please, **Mr. Lawlor**.

**Mr. Singer:** I have a hunch they are voting on section 2 of that statute.

**Hon. Mr. Bales:** I am sure the bells will ring for a while.

**Mr. Singer:** I think I understand now what **Mr. Pukacz** is getting at. Now could you tell me how you made up your \$1,050,000 last year, and your \$1,080,000 this year? What does it comprise? How many people do you employ full-time, part-time, and what's the rest of it.

**Hon. Mr. Bales:** The staff is 61, made up of a chairman, one vice-chairman, nine registrars, 11 assistant registrars and 39 secretarial and clerical.

**Mr. Singer:** These are full-time.

**Hon. Mr. Bales:** Those are full-time.

**Mr. Singer:** Now part-time?

**Hon. Mr. Bales:** Part-time people: There are substantial numbers about who are available, put it that way. About 400 are available to sit on Assessment Review Courts.

There are certain areas of the province, particularly the Niagara region as I have been advised lately, where they do need more assistance, or more people. There are also, as the deputy has pointed out, a number of part-time clerks who are retained in reference to the courts. I don't know the number.

**Mr. Singer:** What are the per diem rates?

**Hon. Mr. Bales:** For the clerks, \$20. How much is it? That's for the day, yes. It is \$60 for the members?

**Mr. Singer:** That is \$60 for each member per day.

**Hon. Mr. Bales:** Yes.

**Mr. Singer:** And who are the members? What qualifications do they have?

**Hon. Mr. Bales:** The qualifications are that they can understand the value of property and the changes in value of property and so forth.

**Mr. Singer:** They must be better qualified than the assessors then. I'd like to know what kind of background they have? Are they legally trained people?

**Hon. Mr. Bales:** No.

**Mr. Singer:** Or are they qualified as assessors, members of the FRAIC or all these various degrees.

**Hon. Mr. Bales:** Some have taken appraisal courses. Fifty are lawyers. I know a



number, for example, Mr. Feagan, a lawyer in Toronto. He's not typical, I don't think, of the members who are.

Mr. Singer: He articulated in our office. I don't know whether he absorbed anything or not.

Hon. Mr. Bales: I didn't know that.

Mrs. Campbell: That should preclude him!

Hon. Mr. Bales: A number of them are people who have some appraisal experience; real estate people, perhaps engineers, and others who are willing to give part-time service. I have lately had a number of resignations from people who indicated it interferes with their ordinary business.

Mr. Singer: For \$60 a day I don't imagine you're being overwhelmed by lawyers for that appointment.

Mr. Bales: That's the reason they wish to retire.

Mr. Singer: No.

Hon. Mr. Bales: That's why I said particularly in the Niagara region and a few others.

Mr. Singer: Okay.

Madam Chairman: Thank you, Mr. Singer. The bells are ringing for our vote. Shall we continue until a quarter to nine or do you want to rise now?

Mrs. Campbell: No, we will go.

Hon. Mr. Bales: Oh but Madam Chairman, we all know the bells. Can we not make the best use of our time?

Madam Chairman: I'm in your hands.

Hon. Mr. Bales: None of us want to miss a vote, and we're not going to because they'll advise us. I'll arrange that they advise us. Will you advise us?

Madam Chairman: Yes, thank you very much.

Hon. Mr. Bales: Tell them to send word to us and then we'll carry on.

Madam Chairman: Yes, fine. Continue Mr. Lawlor, please.

Mr. Lawlor: Madam Chairman, the hon. minister sounds as though he's wearing a hair shirt and he's itching. I don't blame him a bit. I would like to get this over with too, and get back to work so to speak.

Oscar Wilde always made jokes starting with the words: "Everyone knows." Well, I'll start off with everyone knows that the assessment situation in the Province of Ontario is a mess. The government started out on the fair market value assessment picture and completed a considerable portion of that. But somewhere along the line, because of the political repercussions, they quit—they froze on that particular kind of assessment although it had been instituted. And certainly I was surprised to hear that it had been brought in in the past year up in the Bruce area.

In any event, as I understand it, while it's being completed, no further market assessments are going through at this time; they will be brought in *holus bolus* at the end of the day so that the mill rates may be reduced over against the increased assessments all along the line. But it has brought cries of anguish, not so much on the basis of the fair market assessment, which is an extremely laudable concept—the taxation committee I sat on recommended it—but because of the imbalance between commercial and industrial on one side and the residential on the other.

But that's not particularly the minister's problem. He is dealing with the court situation basically. Nevertheless, I understand that there are areas in the province where the assessments, particularly with respect to new dwellings, have not gone forward. They sit dormant, or splendid or quiescent, or whatever way buildings that are new sit without being assessed.

That's just one area. Then the visitation of the angel comes some evening and says: "Well you owe two, three, four years of assessment." We all know that three years is enough to bring the calamity upon you—that you can be sold out by the end of that time through tax sale. There are altogether enough vultures about sitting there waiting to pounce. At these tax sales—

Hon. Mr. Bales: Mr. Lawlor, can I interrupt? I know you don't want to let a misapprehension get around. New assessment is added in, but you don't increase assessment. If you build a new home—

Mr. Lawlor: Yes.

Hon. Mr. Bales: —the municipalities don't lose that. It's added into it. I say that only because I dealt with the legislation when I put it through.

Mr. Lawlor: I'm saying that there are new buildings in the province sitting about unassessed.

**Hon. Mr. Bales:** No, they should be added in.

**Mr. Lawlor:** They should be assessed! And now the provincial government simply says to the local people: "Impose the taxes."

**Hon. Mr. Bales:** The new assessment bill is added in each year.

**Mr. Lawlor:** I don't think so. It's neglected and overlooked and that's it.

**Hon. Mr. Bales:** No!

**Mr. Lawlor:** Well, I could be wrong. I won't press the point.

**Mrs. Campbell:** I don't think they would know.

**Mr. Lawlor:** It is not as if I was at an earlier time when I had made notes on the matter, but there are certain things the minister said. Not with respect to the 150,000 appeals that are made to the Assessment Review Court, but what goes beyond that.

The number of appeals to the Crown goes off in two directions presently, which the minister is seeking to obviate. I take it that he intends to send it, as the select committee report on the municipal board has recommended, to the OMB rather than through the court structure—the county court. But in the past year, how many have gone on to county court?

**Hon. Mr. Bales:** Seven thousand.

**Mr. Lawlor:** Seven thousand? And to the OMB only a very few?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** Two hundred and seventy-seven?

**Hon. Mr. Bales:** I'd like to use a number under 500.

**Mr. Lawlor:** So that the legal profession, or those who are instrumental in this thing, prefer the judicial rule over against the quasi administrative form, apparently.

**Mr. Singer:** No, it isn't.

**Hon. Mr. Bales:** No, that's the next stage. It isn't this route or that route. It's this route and then that route.

**Mr. Lawlor:** Oh, yes, it diverges.

Well, I'm sorry; can't you take it straight to the OMB?

**Mr. Singer:** No.

**Mr. Lawlor:** Does it have to go through the county court judge?

**Hon. Mr. Bales:** That's the next stage of appeal.

**Mr. Lawlor:** I see. So by the time it gets to the OMB it's been reduced to about 300 in the past year, and it goes on from there.

**Mr. Singer:** No, it should jump, theoretically, to 7,300.

**Hon. Mr. Bales:** Yes.

**Mr. Singer:** At which point, theoretically, it will explode!

**Mr. Lawlor:** What I'm interested in—with all these desperate people sitting as partial adjudicators, and full-time adjudicators and what not—this is quite a diversity of people. This is a thorny field, to say the least, in which very few people can really be said to have competence.

They used to use a manual. I think there's probably a new one, but it was *ex officio*. The court would adjourn, go behind the arras and take out the manual, look at it and come back in. It had no official status.

**Hon. Mr. Bales:** Mrs. Campbell and I didn't get that word.

**Mrs. Campbell:** I got the word.

**Mr. Lawlor:** You got the idea.

**Mr. Singer:** Oh, talk to Al Gray and he will explain what this is.

**Mr. Lawlor:** However, it is that way they assess property; it totally defeats the mind of mortal man. It's the most recondite subject in the world, and they have all these people who are all highly competent in the most recondite subject and without any particular degrees.

This is something they do at Queen's University once in a while—instruct them in the art of assessment.

What I want to know is, do they make their reports as the OMB does now? Do they make the reports on the basis of their findings available to the general public? Is it filed in the legislative library? That is, reports from selected cases on assessments?

**Hon. Mr. Bales:** From the Assessment Review Court?

**Mr. Lawlor:** Yes.



**Hon. Mr. Bales:** It is a very informal thing.

**Mr. Lawlor:** Would there be some merit in it, do you think, in order to get a uniform jurisprudence?

**Hon. Mr. Bales:** They are correlated, I know, through the Assessment Review Court offices, but really they are very brief and very informal.

**Mr. Lawlor:** Yes; that's because they are highly ad hoc and because they are highly discretionary and because there isn't any scientific basis. That's what you simply have to generate and I would ask you, since you are loaded with this particular nefarious responsibility, to give some thought to it.

That's the prevailing tenor and atmosphere. Most tribunals in the past suppressed their judgments, gave them verbally and didn't keep a record; but the increasing trend, which is most evidenced in the OMB, is to give reasons and to let those reasons be known to the general public. How else can justice be done? At least in select cases—not the huge volume of cases, which unquestionably are going to increase manifold.

There must be pivotal judgements which give direction as to the mode of thinking and the ingredients that go into the assessment decision so that somebody other than highly specialized individuals would have input. I tell clientele simply to go on their own—at least they are not hampered by a lawyer—before the Assessment Review Court or before the county court judge. The only thing lawyers do, as far as I can see, is to go to the registry office and pick up a few figures with respect to the selling price of adjoining properties or properties in the environs which are of a similar nature, and contrast and compare figures. That's pretty elementary. That's pretty naive stuff if that is the best that can be done in an assessment situation, which is basically what they do, except for a smart few who have perused the manual, who do know how to make assessments on the basis of types of construction, locale and other things.

These people are eminently successful before these courts because they can bamboozle better than the courts can bamboozle them. But it's all highly tenuous and without order. It runs contrary to our notion of justice, I think on the whole, how those courts are run!

I think there should be some published documents once in a while. The federal income tax people didn't used to let us know what—

**Hon. Mr. Bales:** Approximately only one out of 21 appeals. Their provisions are really subject to statutory powers and procedures—I wanted to be sure of that—so there is a check that way.

**Mr. Lawlor:** Well yes. But that is an internal procedure.

**Hon. Mr. Bales:** You may say: "Well we should have written decisions or a manual of them"; or you say: "Look at it." I don't like to say that without meaning it and I will. I'll talk to Mr. Lawson about it.

**Mr. Lawlor:** You are not trying to get me off on the Statutory Powers Procedure Act again, are you?

**Hon. Mr. Bales:** No.

**Mr. Lawlor:** It's a great Act, I agree.

**Hon. Mr. Bales:** I know.

**Mr. Lawlor:** But when they go into an Assessment Review Court they all blow bubbles at one another and some are more iridescent than others.

**Hon. Mr. Bales:** Well, it's been a long time since I've been there, but—

**Mr. Lawlor:** I want you to bring some intelligence into the operation, some uniform principles, something to—

**Hon. Mr. Bales:** Oh that I'm very keen on, because in this regional area it's easier for us to handle that. We have been conducting seminars repeatedly within the area to upgrade those Assessment Review Court officers, to bring uniformity into it.

**Mr. Lawlor:** All right. They make it like an Egyptian cult and practise their esoteric science among themselves arising out of Egypt. Queen's University is the chief place they teach this stuff.

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** That doesn't make the public aware of their grounds and the norms of determination.

**Hon. Mr. Bales:** No. Acceptability, I know, depends upon the public awareness. I appreciate that.

**Mr. Lawlor:** The public is unaware; and the legal profession, by and large, is unaware. And it's not right.

**Mr. Singer:** Could I follow Mr. Lawlor's point? I think he's got a very valid point, be-



cause you get a series of assessment review courts that by and large are dealing I suppose with individual house assessments, residential assessment. The ability of an individual to successfully challenge the assessment relates only to the very primitive research that he can do in looking at the assessment roll and saying: "My next door neighbour has the same house as I do and here is a picture of it and he's assessed at \$1,000 lower; therefore reduce mine."

You only get into any refined practice in assessment appeals—and I have had some experience at this—when it is worth the appellant's while to retain not only competent legal counsel but to retain competent evaluators. That is only worthwhile when we are talking about buildings with very large assessments running into hundreds of thousands or millions of dollars.

Pardon?

Hon. Mr. Bales: You are talking about industrial buildings?

Mr. Singer: By and large; industrial buildings or large apartment buildings. When you get on to that level and you are able to pay that kind of fee for very highly skilled legal counsel and very highly skilled evaluators who can argue successfully or reasonably before either the county court or before the Municipal Board, those people have available to them a substantial body of precedents, some of which creep into the Ontario reports.

So perhaps to phrase Mr. Lawlor's complaint in another way, what he is suggesting is that some people in the assessment appeals are more equal than others, and perhaps this is always going to be the case.

The wealthy appellant is going to be in the best position; but the ordinary appellant, wealthy or not, who is worried about a single family residential appeal, frankly, goes before any one of these appeal tribunals—whether or not he has the tenacity to go before all three levels or now only two—with one hand tied behind his back, because he gets into a kind of language and a kind of discussion that is completely foreign to most citizens of Ontario. Ninety-nine per cent of the citizens of Ontario don't understand the various criteria, the tests and so on, and there is nowhere they can go and reasonably look.

We surround ourselves, in the Assessment Act, with actual value and all this sort of thing. With Mr. Lawlor, I am searching for some way of making this process a little more equal, because I don't think when you descend from 150,000 to 7,000 that really you have

convinced 143,000 of those people that their assessment was in fact correct.

I think maybe 142,500 have gone out of there saying, "I don't understand what they are talking about and there is just no way I am going to be able to fight with them any further." The ones who are left over are determined ones who are able to get the extra advice.

Mr. H. C. Parrott (Oxford): We had a great deal of testimony on this very subject, as you can imagine, in the select committee on OMB. I think your quotation of numbers is perhaps not extremely good in that sense, Mr. Singer, not that I miss your point.

Mr. Singer: Which ones? Which numbers?

Mr. Parrott: The 142,500; because a lot of those were vacancies, a lot of those were appeal that were pretty routine in number.

Mr. Singer: Changing names and that sort of thing; yes, that is true.

Mr. Parrott: I am not trying to deny that many people weren't satisfied, but I thought the point that was made and made very well during those hearings—and I was hopeful that this perhaps was policy now—is that the onus in an assessment appeal was changing from the appellant to the assessor himself.

Hon. Mr. Bales: You substantiate and that sort of thing?

Mr. Parrott: Yes. Is that not coming along in the way of policy, and a good deal more onus now is on the assessor?

Hon. Mr. Bales: It may well be.

Mr. Parrott: I think that that was one of the recommendations of that select committee.

Mr. Singer: It's a very interesting observation Mr. Parrott makes, and the Attorney General's comment is even more interesting. His hope, and your comment that it may well be, are really both meaningless unless you enshrine it in the statute, eh?

Hon. Mr. Bales: That's right.

Mr. Singer: Because even though Mr. Parrott would like it to be, and you say it may well be; it's not going to be unless the statute says it shall be; and the statute doesn't say it shall be.

Hon. Mr. Bales: That's right, not yet.

**Mr. Singer:** No. So perhaps something along the line that Mr. Lawlor puts up would be very helpful to the ordinary, unarmed appellant, the helpless appellant.

**Mr. Lawlor:** Helpless!

**Madam Chairman:** Shall item 1 carry?

Carried.

Item 2, Board of Negotiation.

I am sure we have a watcher up in the office who will come down and give us ample time to get upstairs.

Board of negotiations. Are there any comments?

**Mr. Singer:** Yes, Madam Chairman, I want to speak on that.

**Madam Chairman:** Mr. Singer, then Mr. Lawlor.

**Mr. Singer:** Could you give us some statistics on how many times the Board of Negotiations has been used?

**Mr. Lawlor:** Is this the kitchen table lot?

**Mr. Singer:** This is the kitchen table, the cabinet; the Board of Negotiation, how many hearings has it held?

**Hon. Mr. Bales:** Two hundred and seventy-seven.

**Mr. Singer:** Two hundred and seventy-seven out of how many expropriations? Do you have any figures?

**Hon. Mr. Bales:** No, I can't say.

**Mr. Singer:** The significance of the 277 figure surely has to relate to the number of expropriations?

**Hon. Mr. Bales:** It's a voluntary procedure; it isn't on every expropriation, by any means.

**Mr. Singer:** No, I fully appreciate that. Frankly, in cases in which I'm involved I refuse to go near it.

**Hon. Mr. Bales:** I think people underestimate it.

**Mr. Singer:** All right, this is what I was trying to ascertain by statistics. I say the 277 figure by itself is comparatively meaningless unless you can tell us in how many cases this procedure was available. Somewhere along the line somebody should either have or be able to get the number of expropriations that took place over the

same period covered by the 277 appeals to the Board of Negotiation.

**Hon. Mr. Bales:** I appreciate your interest in that, legitimately. All the municipal authorities have the right of expropriation and a number of boards and commissions as well as the government; and nowhere, that I'm aware, is there a central filing agency, which says: "When you expropriate you must record here."

**Mr. Singer:** I think it would be very helpful—if you haven't got the figure available this year and presumably you can't have it available this year—in your gathering of statistics for a year from now to properly assess the value of this board, in which I have not very much faith, if we have that total figure. If, as I suspect, it's 277 out of, say 10,000—while I'm pulling a figure out of the air, I don't know that I'm being that unreasonable.

**Hon. Mr. Bales:** It is closer to 5,000.

**Mr. Singer:** All right. I wonder whether this process is useful. Let me ask you for another figure. Of the 277 which, in fact, went to the Board of Negotiation, how many were settled finally? How many then went on to the Land Evaluation Board or its predecessor in these matters, the Land Compensation Board?

**Hon. Mr. Bales:** To be honest with you, I don't have that.

**Mr. Singer:** If you don't have that figure, it's almost impossible to assess except by speculation.

**Hon. Mr. Bales:** I don't have that.

**Mr. Singer:** I think those are two very important figures.

Let me tell you what I think has happened. I don't think that very many people are resorting to this procedure. I don't think, despite the fact that there have been 277 hearings in a great mass of expropriations, that the situation has proved itself very useful. It's a voluntary negotiation board which many lawyers steer clear of; and unless you arm it with some teeth—

**Hon. Mr. Bales:** If I may say, it's not really the lawyers' bag, is it?

**Mr. Singer:** No, it isn't. I worry about this kind of thing, because it's to some extent—

**Hon. Mr. Bales:** Excuse me just a minute.



Mr. Singer: All right.

Hon. Mr. Bales: Just by way of help, these are informal figures.

Mr. Singer: All right.

Hon. Mr. Bales: They may assist you. Settlements prior to the meeting of the Board of Negotiation six; following the Board of Negotiation 48; assisted by the board three; meetings cancelled six; still negotiating 33; meeting with unanswered questionnaires three; going to arbitration 16; meetings arranged but not yet finalized 25.

Mr. Singer: Those figures by themselves are a little confusing, because your total was 277, did you say?

Hon. Mr. Bales: In summary, out of that, settled 57; under negotiation 33.

Mr. Singer: Your total figure was 277. You settled 50 odd so you have settled 20 per cent—I am sorry, 50 out of, yes, one-fifth.

Hon. Mr. Bales: That adds up to 208.

Mr. Singer: All right, so you've settled less than one-fifth by that process.

I would say that even those figures, as sketchy as they are, indicate something less than overwhelming approval of this system. What I object to really, insofar as this is concerned, is the—

Hon. Mr. Bales: No, it is not the be all.

Mr. Singer: No, but it is the insertion of another level of officialdom in the face of, by and large, unarmed and helpless expropriatees.

Hon. Mr. Bales: It's there if a person wants to use it. They have to ask to use it.

Mr. Singer: I know and there are a lot of people who—well, I've experienced this myself in some recent cases I'm now dealing with.

I've got something going on at Wasaga Beach and I've had my eyes opened by the approach of some of your interesting people from the Ministry of Government Services, who went barging in on a little old lady who is the mother of my client. This poor little old lady is little and old, and in good physical health but not in good mental health. For several hours they were saying: "Give us the keys and take your sign off the highway. We can't get in touch with your lawyer. We've tried several times".

Of all things! I'm certainly not anonymous and anybody can find me if they want, but I hadn't heard from them.

Similarly the federal people in North Pickering are doing the same sort of thing. I think that people who find themselves in this position often are the subject of well-meaning but determined and stubborn civil servants who try to get the thing settled quickly.

This is another level where that can happen. I am not happy with this Board of Negotiation and it would be my very strong feeling that it should be done away with, because I don't see a proper case for it.

Let me give you one example which I think falls within the provincial sphere. In an effort to try to find out what was happening in North Pickering—that's south of Highway 7; not the federal part which is north—I was told by the Minister of Government Services (Mr. Snow) I guess, that they have X number of properties. Maybe it was the Minister of Revenue (Mr. Grossman) I am not sure who has come into that. In any event it was the responsible minister.

They have a group of very clever, able and determined negotiators out there saying: "Sign here". And they are getting some people to sign. They have had a few hundred people sign. Many more hundreds are going to go to the Land Compensation Board where at least there will be some consistency and where there will be general availability of figures. Most of the people who will go before the Land Compensation Board, either individually or collectively, will have reasonably competent legal counsel and reasonably competent evaluation advice. In that level they will get a fair break.

The people whose land has been negotiated are not going to get any adjustment even if the level is 10 per cent higher than what they signed for. They negotiated either through the determination of representatives of the Ministry of Government Services or through the additional imposition of the Board of Negotiation. It seems to me that when government takes land, it should lean over backwards—and our Expropriations Act, 1968-1969, reflects this—to give these people every break. I think it's unfair to take the ordinary, untrained person who is ignorant of these laws and bring them before some form of officialdom, even in the kitchen table negotiation, and say: "We are trying to be fair, we are trying to be impartial; however hard they might try." So, it continues to be my very strong feeling, Madam Chairman, that for the little use that this board has been subjected



to, and the very small amount of expenditure in a very small number of cases, that we could save—not a big amount—we could save \$83,000 by taking it out; and we could ensure greater fairness to those people affected, by letting them go either on straight negotiation, or to the land compensation board where they would get, I think, a better break. I feel that very strongly and I have argued against this Board of Negotiation for a long period of time.

**Hon. Mr. Bales:** I think you did when the bill went through.

**Mr. Singer:** Yes, I did.

**Hon. Mr. Bales:** There is one thing I said that I would like to correct, and I noticed this, and reflected on it, while we were discussing this matter. I said, in essence, that seldom did lawyers appear. The record of the board indicates that in about 80 per cent the solicitor is present.

**Madam Chairman:** Thank you, Mr. Singer. Mr. Lawlor?

**Mr. Singer:** I wouldn't want to analyze who that group might be, but certainly my conversations with people who handle some of them, indicate that their thinking is not different from mine, and that they don't want to waste their time by appearing.

**Mr. Lawlor:** Madam Chairman, listening to Mr. Singer speak, instead of calling it the kitchen table committee, you might have to call it the kitchen sink one, where the hot water is turned on and the poor little old lady was apparently scalded.

What I am interested in is the composition of the board, the membership and who—

**Hon. Mr. Bales:** The names?

**Mr. Lawlor:** The names.

**Hon. Mr. Bales:** Mr. William Long is chairman; Mr. W. C. Dymond, vice-chairman; members are: Earl Armstrong, John Bennett, John Ferguson; that is Earl Armstrong, of Manotick, and John Bennett, of Campbellville; John Ferguson, of St. Thomas; Bruce Fleming, of Sault Ste. Marie; Melville Gaiser, of Exeter; Fred Headman, of Parkhill; Warren Mowat, of Whitby; Leo Schedlin, Toronto; and Eric Webster, of Lansdowne.

**Mr. Lawlor:** Ten?

**Hon. Mr. Bales:** There are nine members and the chairman and vice-chairman.

**Mr. Lawlor:** I feel the same way, although it was recommended very strongly, as I recall, by Mr. McRuer that there should be this intermediate body, which in an informal setting, sits down and irons out the difficulties. It certainly hasn't worked very well.

**Hon. Mr. Bales:** For example, this little part here—

If the board after listening to both parties considers it has enough information and if the parties have not agreed during the meeting, the board will then give their opinion as to compensation they feel would be fair. This may or may not be acceptable by either party, and if no agreement follows they are free to proceed to arbitration.

That is to the Ontario Land Compensation Board. You know there is the opinion of individuals. People don't have to accept it—

**Mr. Lawlor:** True!

**Hon. Mr. Bales:** But here is an impartial person, with no connection with this agreement, but accustomed to these matters, sitting back and endeavouring to assess what two people, or two parties or their representatives, are putting before them. Now I think that, to me, is of assistance.

**Mr. Lawlor:** That acts as a buffer, nothing lost, of course; and perhaps nothing gained in the process. I suppose it acts as a thing for parties if they want to use the procedure to feel each other out as to what figures to read. But, again, from a legal point of view, that particular fencing is neither here nor there. You go to the Land Compensation Board, you jump it, because you have a fairly determinate case; you have your assessment and evaluations made, you know what you need and want, you don't need to go feeling around in the underbrush trying to bring them up to a particular level.

They are fairly clear and adamant. The only thing you possibly could gain would be to have certain factors introduced into the equation, which at the very initiation hadn't really been given proper thought by either party, on either side. But I don't think that is very usual and when we get to the vote on the Land Compensation Board, I am sure we will see where the weight of this particular business on expropriation falls.

I think it was Mr. McRuer's feeling that the sacrosanct rights of private property were so overwhelming that every conceivable sponge, or every conceivable buffer, ought to be built between the citizen and those seeking

the expropriation—and that all avenues of exploration should be carefully charted. In other words, I think you have gone over too far, bent over backwards in this regard, trying to be overly fair. I think that that degree of fairness is only adding unnecessary burdens to the provincial Treasury—and it is not all that great a sum of money—\$83,000 being asked for this particular year, but I suspect \$83,000 could be better spent elsewhere.

**Mrs. Campbell:** Madam Chairman, I would like to speak to this, if I may. I had occasion to go before this board, about the beginning of it, I think. I didn't go as a lawyer, I went as a politician, to assist some people, who were in an area which was desperately under attack. And my reaction to it—I hadn't prepared a case as I would as a lawyer—but I did try to help in the brief moments I had to give assistance.

I am of the opinion that this sort of thing might work if people sitting on it, oddly enough, were not local people. In other words, if you had people from other areas coming here, and people here going out, it might have a different effect. But there was a very great closeness between those who were sitting in this matter. They came from close to the area, at least the chairman did, close to the area which was under fire. It was a highly political sort of situation, in the city of Toronto, and I had no sense of that objectivity, which I think is essential in a matter of this kind.

To me, if you don't have that kind of approach to a situation; if you are a realistic person in an area, or near an area, which is under fire, you have your own approaches.

I felt very much concerned about this on this occasion, and so, of course, did the people. They felt under threat, too, that once the board came to this decision, that they were pretty well, as they put it to me, "dead pigeons" to go anywhere else.

Frankly, I do not think this thing is working. I would not support any money for this operation if it is feasible to do anything about it, because I think it is a sheer waste of tax dollars.

The only time I do think it might have some benefit, would be if you had a shift in the people dealing with matters. I don't know whether you could give consideration to that, but I think people might have a greater sense of objectivity, if that happened, if the people from St. Thomas were here and let the people from here go out to St. Thomas.

**Hon. Mr. Bales:** Well, by and large, when you think of 11 people for the whole province there are bound to be unfamiliar areas.

**Mrs. Campbell:** Well, they aren't when they are in Toronto, that I am aware of. They may be elsewhere.

I support what both the previous speakers have said. In my view this particular operation, as I saw it functioning or not functioning, is a sheer waste of tax dollars.

**Madam Chairman:** Shall item 2 carry?

**Mrs. Campbell:** No!

**Mr. Singer:** I think, having listened both to the hon. member for Lakeshore and the hon. member for St. George, to further express our opinions about this I will move that this vote be reduced to the sum of one dollar.

**Madam Chairman:** I'm sorry, but I don't think your motion is in order, is it. Mr. Singer?

**Mr. Singer:** Oh, I think it is. I don't want to move that the Attorney General's salary be reduced to one dollar, but I have no faith in the Board of Negotiation. I think that's a separate vote and we can move that be reduced to a dollar.

**Madam Chairman:** I believe, according to standing orders, Mr. Singer, that motions of supply have to come either from the Lieutenant Governor or from a minister.

**Mr. Singer:** Oh, no! It's a standard vote on estimates to reduce any estimate to a dollar.

**Madam Chairman:** I see. All right.

**Mr. Singer:** If we have a particular hate against the minister, we sometimes move that vote too. It seldom carries, but it's been tried. I'm not optimistic that this will carry, but I just thought as a sign of protest I would move the motion.

**Madam Chairman:** All right; shall we take the vote then before you leave?

Those in favour of Mr. Singer's motion?

And those contrary?

The motion is lost!

**Mrs. Campbell:** Did they all have a vote over there, Madam Chairman?

**Madam Chairman:** The item is now carried.

**Mrs. Campbell:** I didn't hear them all get announced.



The committee recessed at 9:25 o'clock p.m., for a vote in the House, and reconvened at 9:35 o'clock p.m.

**Madam Chairman:** We could start some discussion, could we not, on item 3, Criminal Injuries Compensation Board.

**Mr. Singer:** Yes, let's discuss.

**Madam Chairman:** Where's Mr. Martel? that's fine.

Interjection by an hon. member.

**Madam Chairman:** Mr. Lawlor?

**An hon. member:** He's got to get—

**Mr. Lawlor:** Yes, I have a few remarks on this particular board.

**Mr. E. W. Martel (Sudbury East):** I like the minister, that's why I come along.

**Hon. Mr. Bales:** Thank you.

**Mr. Lawlor:** You didn't know that, eh?

**Hon. Mr. Bales:** I'm leery.

**Mr. Martel:** I get a little snarky with him once in a while; that's just to keep him in line.

**Mr. Lawlor:** This is certainly an escalating area in terms of costs. As has been the experience in other jurisdictions, the number of applications continues to increase because a considerable period of time is required to acquaint the public as to its rights under the comparatively new crime legislation.

The total amount of awards granted, for instance, in 1969 was \$20,000; the following year it was \$245,000; and then it went to \$400,000 in 1971. This is the last report I have before us; and how it continues to escalate! We are being asked in this vote to provide \$480,000.

**Hon. Mr. Bales:** I thought you'd say alleluia.

**Mr. Lawlor:** No, \$1,022,300. In the 1971-1972 year, it was \$50,000; for 1972-1973, it was in estimates, \$775,000. What was it actually last year, for 1972-1973?

**Hon. Mr. Bales:** I haven't got that figure yet.

**Mr. Pukacz:** May I comment on that?

**Hon. Mr. Bales:** Mr. Pukacz has it.

**Mr. Pukacz:** The actual awards amounted to \$616,000 for 1972-1973.

**Mr. Lawlor:** That's a jump of \$116,000 over the previous year.

**Hon. Mr. Bales:** To put it into perspective—in 1971 there were 204 hearings; in 1972, there were 464.

**Mr. Lawlor:** Right!

Interjection by an hon. member.

**Mr. Lawlor:** Yes, I know. It's escalating and it's escalating rapidly. The feeling has been up to this time that the public was insufficiently aware of the benefits under the Act.

**An hon. member:** They are well aware.

**Mr. Lawlor:** My questions tonight have to do—

**Hon. Mr. Bales:** Last year's figure is artificial—just to be of assistance—because the number of applications received last year went up only by 50 from the previous year. The board dealt to a great degree with the backlog that had accumulated.

**Mr. Lawlor:** The hangover from 1971-1972, eh?

**Hon. Mr. Bales:** Yes.

**Mr. Lawlor:** I see. What was the hangover, if I may ask, at the end of 1972?

**Hon. Mr. Bales:** Hearings pending at the end of 1971 were 380; at the end of 1972, 344.

**Mr. Lawlor:** So that—

**Mr. Singer:** It has only been in existence for two or three years.

**Hon. Mr. Bales:** Since 1969.

**Mr. Pukacz:** Three years.

**Mr. Singer:** Three years.

**Mr. Lawlor:** For 2½ years—three years, I'm sorry.

**An hon. member:** Three years.

**Mr. Lawlor:** It's altogether a beneficial thing and, like Legal Aid, we certainly are wholly in favour of it; and by and large with the way in which it is being conducted.

We have in the report of last year, numerous heads as to how it is granted. As a matter of fact, each case is numbered and listed and some of the salient factors and the decisions are given. I'll come back to that in a few moments. I don't know



whether it is fair to do this which is why I would like to have seen the chairman of the board in order to interrogate with respect to the considerations, but perhaps it can be handled at this particular stage.

On page 18 of the report there are some curious propositions which bother me a bit. It says:

Normally, provocative behaviour by the victim will result in reduced awards. [That is understandable.] We have penalized foolhardy conduct. The board in the UK refuses an award to a victim who voluntarily joins a fight where no weapons are used. [That bothers me.]

Mr. Singer: That's in the UK, though.

Mr. Lawlor: Yes.

Mr. Singer: Right.

Mr. Lawlor: Wait a minute now.

Or both parties are armed, and makes a reduced award if the applicant is unarmed and the assailant used a weapon or disproportionate violence. With respect, we think that this is the right approach. With respect, I question whether or not it is. There is the whole notion of the good Samaritan—two people are quarrelling, actually fighting, and he intervenes between them. He suffers some kind of injury as a result of that. They say that he has taken that on voluntario non fit injuria, or some strange Latin term.

Mr. Singer: That sounds strange to me.

Mr. Lawlor: You remember that phrase! Come on, it had to do with the Workmen's Compensation Board.

Mr. Singer: I would have to think about it.

Mr. Lawlor: The whole of tort law is corroded with it.

Interjection by an hon. member.

Mr. Lawlor: Anybody who voluntarily takes upon himself a risk has no—

Mr. Singer: I want to get him on the word "voluntario".

Mr. Lawlor: Yes, volenti non fit injure.

Mr. Singer: You used the word voluntario.

Mr. Lawlor: Did I? I see; volenti is right.

Thank you, Mr. Singer, you are much more of a Latinist than I.

Mr. Singer: Not really; not at all.

Mr. Lawlor: We won't push it too hard.

Mr. Martel: The language is dead; I don't know about the people who use it.

Mr. Lawlor: On that aspect of the matter, reducing it to a good Samaritan cause, I think a man would be foolish if both assailants had weapons and he stepped in. He should be very careful about doing that.

We are constantly blaming people for not intervening and not paying any attention to what goes on in civil embroilment on the public streets where they might be of some benefit. Then we turn around, with the compensation fund, and say, "We are not going to reward you if you intervene in this way."

In France they have a law by which anybody who may rescue another person who is in peril, and refuses to do so, may suffer a very severe penalty. Our feeling in this jurisdiction is that if such a person were there even if he can do so without risk to himself that particular principle ought not to apply. Why, I am not sure.

We think they'll do it out of spontaneity and generosity. The fact of the matter is, they don't. A man will stand on the bank and will watch a child drown when he might have helped. He's a good swimmer and there's no reason he couldn't help. He's under no obligation under the callousness of the system.

That individualism and laissez-faire, carried to a very great extreme, are still perpetuated in our law and are part of the general tenor of mind of what I am talking about. It ought to be altered and rectified.

I am interested in certain decisions which have been made by the board in the past year. There was the one in January this year when five prisoners and a guard, injured during the Kingston penitentiary riot in April, 1971, were refused compensation by the Criminal Injuries Compensation Board.

However, a minority ruling by Judge A. R. Willmot said compensation should be paid to all six applicants. He took the view that in denying any award the board majority was making an exception to the statute—the Law Enforcement Compensation Act—which only the Legislature could do. I put it to you—I don't know if it is our functional role here to criticize a decision made, but I suspect we should say something about it—I put it to you, if you read the strict, literal terms of that statute, which I have done, and

gave it careful perusal, there is no justification for that denial whatsoever. To read the decision it doesn't say: "Anybody who was injured in this province through activity which is criminal in nature is entitled to compensation". Contrast that with the situation of a few weeks later in which a policeman, for the first time, a policeman who had been injured—I suppose he receives some kind of compensation from the Workmen's Compensation Board and from the police association, from the funds that they have—but over and above that he went before the board in question and received compensation, I believe the sum of \$1,000.

It means that policemen who are injured fall within the contour lines of the section—and the reasoning there was that he was a provincial policeman, he wasn't a municipal policeman, within the jurisdiction of the province—but that these people at Kingston penitentiary were federal civil servants, federal prisoners, and since they were federal the—

Hon. Mr. Bales: Not because they were federal civil servants, but rather because they were not under the control of the province, they were under the control of the federal authority.

Mr. Lawlor: Well, that's a nice distinction.

Hon. Mr. Bales: We have no law enforcement there.

Mr. Lawlor: How about the guard?

Hon. Mr. Bales: No, that's entirely—

Mr. Lawlor: In a broad sense he is certainly under control—

Hon. Mr. Bales: No, he's under federal control, in that particular prison. Now, if it were provincial, it would be different.

Mr. Lawlor: Oh, I agree; in any provincial institution in which the guard is injured, the guard is entitled to compensation.

Hon. Mr. Bales: Mind you, Mr. Lawlor, I think that under the agreement that I completed with the federal authorities, if such a situation were to arise again, we would then be obliged—

Mr. Lawlor: Right, this year when you are getting \$400,000 from the federal authority as an ex gratia payment, you can hardly—

Hon. Mr. Bales: No, not as an ex gratia payment; I don't mean that.

Mr. Lawlor: No, no, no, legitimately within the terms of that agreement.

Hon. Mr. Bales: Within the terms of that—

Mr. Lawlor: Oh yes, that's what I'm saying. I was going to joke with you and say that you can hardly take the \$400,000 from the federal government and then say that they are outside the scope of the legislation, as such, on any interpretation. I am just saying, that on straight literal interpretation, I put it to you that that was an unjustified refusal to grant people the money. I don't know if there is much point in pressing that point, because of this recent move by Mr. Lang to grant considerable sums to the province under this head—as he has done under Legal Aid.

That is strictly delimited, of course, as to—there are what—40 heads of crimes, that are eligible for the compensation? Then there is a set list of crimes, which is before me, and which was issued by the federal Justice department as to which ones they were prepared to cover and which ones they were not prepared to cover. There are some, I believe—

Hon. Mr. Bales: The agreement now covers pain and suffering which it didn't originally.

Mr. Lawlor: Right, and the sum is \$4.5 million, I believe.

Hon. Mr. Bales: With what we estimate. No, not \$4.5 million; no, no—

Mr. Lawlor: No?

Hon. Mr. Bales: No, that's the Legal Aid.

Mr. Lawlor: I'm sorry, you're right; it is the Legal Aid. This is \$400,000.

Hon. Mr. Bales: They will get about \$100,000 this year.

Mr. Lawlor: What's that?

Hon. Mr. Bales: About \$100,000 this year. Fiscal, January to March.

Mr. Lawlor: Well, yes, for the partial year?

Hon. Mr. Bales: Yes, it is effective Jan. 1, 1973.

Mr. Lawlor: I see. Yes, well to Mr. Singer—Vern, may I have that back, please; there are some things I want to—

Yes, the pain and suffering is the most interesting thing, because hospital expenses and other out-of-pocket things are to some extent taken care of, and are not compensable, be-



cause they are derivable from other sources, and they are covered by other agencies and, therefore, that is not a basis of the award. What is the substantial basis of award, if one looks through the monthly summaries of the sums granted, is pain and suffering, and that's altogether beneficial.

Of course, pain and suffering is an extremely negligible thing to deal with—not negligible, but nebulous thing, difficult to accept; the courts have extreme difficulties with it, all the way along. I want to refer you to two cases and ask you just what you think as to the discrepancy of the thing.

In March, 1971, was case number 100-206, an assault case. In that assault case the medical expenses came to \$155.20 and the award on pain and suffering was \$3,000. A little later in that year was case number 100-275, an assault charge, where the medical expenses were \$1,000. Listen to this: Whereas the medical expenses were \$155 in the first case, they were over \$1,000 in the second, but whereas the pain and suffering in the first case is \$3,000, in the second it is only \$600. Now looking up the cases, they are on pages 43 and 47 of the report, it is extremely difficult, certainly, to tell on the surface as to what the distinction was, and as to the basis of the award. Is there any way of you—

**Hon. Mr. Bales:** There is no correlation necessary between them. It depends so much on the individual facts of this case.

**Mr. Lawlor:** I suppose we just have to accept this on—

**Mr. Singer:** We have had the broken finger of a concert violinist in one case, and the broken finger of the hourly rated labourer—

**Mr. Martel:** It was silicone—

**An hon. member:** I've heard the same thing.

**Mr. Martel:** Which wasn't awarded.

**Madam Chairman:** Will item 3 carry?

**Mr. Lawlor:** No, it seems very strange that there should be—

**Mr. Martel:** Gross discrimination.

**Mr. Lawlor:** One thing I find strange too, is the aggregate total in a case of a single victim is \$175,000. Is that correct?

**Hon. Mr. Bales:** What?

**Mr. Lawlor:** Yes, the lump sum payment. It was set up on a periodic basis.

**Hon. Mr. Bales:** It's the total, \$1,264.

**Mr. Lawlor:** One thousand—

**Hon. Mr. Bales:** Average award.

**Mr. Lawlor:** Oh, I don't care about the average award, I'm talking about what the statute says. All right, let me tell you, on page 17, it says:

If there is only one victim resulting from the criminal act, or omission, the maximum lump sum award, under the new Act, is \$15,000, and under the old Act, \$10,000. In the case of periodic payments, the maximum under the new Act is \$500 a month with the ceiling of \$175,000, plus a lump sum payment not exceeding \$7,500.

The total amount given to any one person under periodic payments can be \$175,000—

**Hon. Mr. Bales:** Over—

**Mr. Lawlor:** —over a long period of time.

**Hon. Mr. Bales:** —a very long period of time.

**Mr. Lawlor:** Yes. Totally deserved. That same ceiling is true with respect to more than one victim of a single incident.

**Hon. Mr. Bales:** Under section 19(2) the total amount awarded by the court to be paid to all applicants in respect of any one occurrence shall not exceed (a) in the case of lump sum payments, a total of \$100,000.

**Mr. Lawlor:** Right.

**Hon. Mr. Bales:** And (b) in the case of periodic payments, a total of \$175,000.

**Mr. Lawlor:** Do you see no discrepancy there? It's rather curious that it—

**Hon. Mr. Bales:** It deals with all applicants in one situation.

**Mr. Lawlor:** If you are really going to get hurt, you should do it by yourself. For the moment, that's all I have to say, Madam Chairman.

**Madam Chairman:** Mr. Singer.

**Mr. Singer:** Madam Chairman, I want to say that I am very pleased with the operation of the Criminal Injuries Compensation Board. I think Mr. Wishart is doing an outstanding job.

I don't agree 100 per cent with 100 per cent of the things he has done but I am sure that he and the members of his board bring good judgement to their decisions. They are



doing a good job and I'm very happy to see that an idea originally put before this government by the Liberal justice critic seven years ago has now been adopted in legislation and is working out so well.

**Mrs. Campbell:** Madam Chairman, I would like to ask some questions.

**Madam Chairman:** Mrs. Campbell.

**Mrs. Campbell:** Madam Chairman, throughout, on various headings I have tried to express something of a problem and what I think ought to be a look at a philosophy in connection with this particular board.

There is one group in the community which is undoubtedly damaged as a result of criminal activity and which does not seem to have available to it assistance in terms of dollars. I'm thinking of—and I point out to you as I have said before—this whole matter of the child who is damaged as a result of criminal activity.

I wonder if there is going to be some thinking about this particular problem because the child is not before a court to get the protection—

Interjection by an hon. member.

**Mrs. Campbell:** May I go on? To get the protection that the child should have. That child may be damaged in so many ways. I recognize that it is not an easy thing to assess damages in the case of a child who has been damaged by something in the nature of contributing.

It is my view that it's a sad thing when governments get so big—and it's true of all of them, not just this one—that one cannot correlate the costs—if it's only dollars we are talking about—to other ministries as a result of a child involved in this kind of activity on the part of an adult.

I would like to hear from the Attorney General if there has been any thinking about this; and if he would be concerned to do some thinking about it before the estimates come around the next time?

**Hon. Mr. Bales:** Last year—I may need to be corrected—I believe about 21 to 24 children received awards under this authority. The board had to use its own judgement but if it felt the parents were responsible—and I use "responsible" in the sense of receiving money to be used for the benefit of the child—the moneys were paid to the parents for the benefit of the child in most instances. But where there was an absence of parents in some cases, or the board felt that parents

were not interested or dependable, then the moneys were not paid to the parents for the benefit of the child. They were then, and only then, paid into the Supreme Court. While this is security, my main concern is that if the child at that age needs that assistance, then it is there and available to it.

**Mrs. Campbell:** Well, Madam Chairman, this is why I raised earlier the question of a role for the Official Guardian in such matters—so that there could be some ongoing care for a child in these circumstances. Perhaps it's my ignorance in the matter, but I thought that these cases where children were compensated were cases where they had been hurt, but not as a result of a contributing charge. Am I in error there?

**Hon. Mr. Bales:** They were the victims.

**Mrs. Campbell:** Pardon?

**Hon. Mr. Bales:** They were the victims of crimes, not necessarily contributing—

**Mrs. Campbell:** No, but I think there is a difference. I made inquiries to try to see how we could get a child in these circumstances before a board. Anything that I turned up indicated that it was only in a case where a child was injured in somewhat the same way as a police officer or somebody else—not in the cases which are peculiar to children.

**Hon. Mr. Bales:** I appreciate that.

**Mrs. Campbell:** Would the minister give some thought to this?

**Hon. Mr. Bales:** Within the scope of this Act as it stands today?

**Mrs. Campbell:** Yes.

**Hon. Mr. Bales:** Criminal injury?

**Mrs. Campbell:** Yes, well there are criminal injuries and criminal injuries surely. What do you do if it is a criminal injury that affects either the emotional or mental welfare of a child?

**Hon. Mr. Bales:** It's one of those matters which I will discuss with Mr. Wishart.

**Mrs. Campbell:** Thank you, very much.

**Madam Chairman:** Shall item 3 carry?

**Mr. J. A. Renwick (Riverdale):** Madam Chairman, I was interested to see an exchange which took place at the time when the minister was urging a crackdown on

parole. There was an exchange between Arthur Wishart, the chairman of the board, and David Miers, who is now teaching at Queens University in Belfast.

Arthur Wishart, chairman of the board and former Ontario Attorney General, objected that people who deprive themselves by their drinking of the power to reason are the authors of whatever befalls them. Mr. Miers replied that the fact that he has voluntarily destroyed his reason does not liberate the state from protecting him. I gather this was the result of a discussion which took place between these two men on some kind of a panel.

Do you accept the proposition that a person would be entitled to compensation if he were the victim of a crime, regardless of whether or not he was drunk at the time that he was the victim of the crime? I wouldn't want to repeat any grounds that have been covered.

**Hon. Mr. Bales:** I think in several instances Mr. Wishart's remarks shouldn't be taken literally. Those were made, I think, at a conference which was arranged last September here. The Ontario government were the hosts to members of boards of compensation—similar boards to this—and a number of people came from 52 countries, if I remember rightly, that had some interest in this matter.

In several instances, I think the board have made an award where the person didn't have all his faculties by reason of a little imbibing ahead of time.

But I think Mr. Wishart was expressing his own views. Newspapers being what they are, perhaps they weren't able to catch the whole meaning of that interchange.

**Mr. Renwick:** Madam Chairman, he was apparently referring to a situation in which a man who had consumed a lot of alcohol and got into an argument at Palmerston Ave. and College St. at 1 a.m. was injured.

**Hon. Mr. Bales:** Was it a case?

**Mr. Renwick:** Yes, apparently.

**Hon. Mr. Bales:** Before the board?

**Mr. Renwick:** Presumably.

**Hon. Mr. Bales:** Had it then been decided?

**Mr. Renwick:** I don't know. This is a year ago; so it must have been decided. Well, not a year ago, about nine months ago.

**Hon. Mr. Bales:** They may have been using it as an example or something.

**Mr. Renwick:** Yes. This is a citation of a case. He was using it as an example of indicating that the board has, apparently, an attitude toward compensation which appears to be discriminatory.

This was the proposition that David Miers was apparently putting before the conference. He was quoted as stating the logic would be that if you were in a relatively higher crime area, likelihood of your suffering a criminal assault seems to have the effect of lowering the amount that you're entitled to receive; that those very people who stand the greatest chance of victimization also stand the greatest chance of being found to have contributed to their injuries.

Well, I don't know. I think it would have been most helpful, as my colleague said, if we'd had the chairman here to discuss this question of attitudes, because it's the kind of matter which I don't think the minister or those on his staff can adequately deal with.

**Mr. Lawlor:** To go back, if I may, for a moment on to that Kingston case and to Barry Chertkoff, the lawyer who appealed the case to the Supreme Court. What came out of that? Does anyone know? It should have been heard by now. It was appealed in January.

**Mr. F. W. Callaghan** (Deputy Attorney General): I don't think a decision has been rendered on that case yet.

**Mr. Lawlor:** Hmm?

**Mr. Callaghan:** I don't think there's a decision on that.

**Mr. Lawlor:** Nothing has been handed down yet? Have you any idea what happened in the case—it's fairly recent—of Doris Green and her chances for getting \$42,500 in criminal injuries compensation in that her husband had never filed income tax? The feeling of the board was that if the income tax people moved in and picked up \$10,000 a year for four years in which he hadn't filed, all the moneys would go to the federal government and none to her.

**Mr. Callaghan:** There are four cases appealed to the courts, two of which have been sent back for rehearing and two of which are under consideration. I'm not too sure which four they are.

**Mr. Lawlor:** There's a final case I want to ask about, a case of a fireman. The divisional court sent back to this board the case of an injured fireman in January of this year. The



claim of the board was that he was injured as a fireman and not because he was a crime victim. I suspect there was arson connected with the thing, and therefore a crime. The board had dismissed Mr. Fregeau's application for compensation, and as I say it was sent back. Have you any idea what the determination in that case was?

Hon. Mr. Bales: No, I haven't.

Mr. Lawlor: It argues to the fact that we should have the chairman here to discuss these things with us.

Madam Chairman: Shall item 3 carry?

Carried.

Mr. R. B. Beckett (Brantford): Madam Chairman, at this point could I ask what your intent is, because of the hour and the time tonight?

Madam Chairman: I think that if we don't finish tonight we'll carry on tomorrow, because we'll almost be completed. It shouldn't take us long. I think if we don't finish this vote tonight we will carry on and sit tomorrow morning at 10 o'clock.

Mr. Renwick: How can you possibly sit tomorrow morning, Madam Chairman, when there's a private bills committee meeting?

Mr. Lawlor: That's what we've argued.

Madam Chairman: Wednesday is our traditional day for standing committees. This is an important estimate and we are almost at the point of finishing.

Mr. Renwick: Madam Chairman, regardless of the explanation you give, it is totally ridiculous to suggest that this committee sit tomorrow morning.

Madam Chairman: Well, I don't find it ridiculous.

Mr. Renwick: There is no rational explanation for what this committee does, or apparently the way in which the government is conducting the business of the House.

Madam Chairman: Do you wish to sit a little longer tonight? We can't hurry these items.

Mr. Renwick: We certainly can't hurry these items, and we in this party are quite prepared to sit even after the Queen is here this summer, if necessary, to complete the work.

Now if we're going to be subjected to this kind of harassment from now on it is just impossible. Mr. Lawlor and myself are both on the private bills committee. Mr. Lawlor and myself have the responsibility in our caucus for these estimates. How you expect us to be present in the private bills committee and here is beyond me.

Madam Chairman: Mr. Renwick, the fact is I was asked more than a week ago, in fact, when the estimates committee was first established, if we would start sitting on Wednesdays and I said I would like to put it off as long as possible. But the fact is that the work is before us. We are doing a very important estimate and we are almost at the point of completing it.

All I'm suggesting, and I'm saying this to the committee, is if we do not finish tonight then we should be prepared to sit tomorrow at 10 o'clock.

Mr. M. Cassidy (Ottawa Centre): Madam Chairman, can I just have a word in this? I also am a member of the private bills committee and there is a very important decision coming up there before it. Since the bills committee is an extension of the Legislature which in fact has legislative functions, it's very difficult for any of the members of the New Democratic Party on this committee, and myself as an occasional member, to tear ourselves away from private bills in order to come here.

It so happens that the last major item in these estimates is Ontario Municipal Board, an area in which I am directly connected or concerned. I had hoped it would be possible to have the chairman of the board with us when we meet. It seems to me that, had you intended to have Wednesdays hearings, the time to have raised this would have been at the beginning of the Attorney General's estimates.

Madam Chairman: It was, but you were not here.

Mr. Cassidy: And not at 10 o'clock just at the very end and suddenly spring it in the committee!

Madam Chairman: Sorry, Mr. Cassidy, this was raised before—well, it was raised earlier and you were not here.

Mr. Martel: Madam Chairman, you manage to get yourself in trouble all the time. Is it something you do deliberately? This committee sits concurrently with the House. Wednesday has been set aside for committee meet-



ings. Now, how can you force the two to conflict?

**Madam Chairman:** Mr. Martel, there is absolutely no reason why this committee cannot sit tomorrow.

**Mr. Martel:** There is every reason, Madam Chairman, for it. Mr. Lawlor and Mr. Renwick, who are on the private bills committee set up by the House, are also on the committee for these estimates. The House business was ordered so that this committee would sit concurrently with the House. Wednesdays were set aside for committee meetings of special committees.

**Madam Chairman:** I am sorry, Mr. Martel.

**Mr. Martel:** That is an absolute lot of nonsense.

**Madam Chairman:** There is absolutely no reason why this committee cannot do it; and this committee has sat in the past—

**Mr. Martel:** There are all kinds of reasons.

**Madam Chairman:** —on Wednesdays and I believe that we have got enough ahead of us that we must now start sitting on Wednesdays.

**Mr. Martel:** The House leader, Madam Chairman, has guaranteed this party, and the Liberal Party, that he would order the business such as it would not conflict. That is why you do not have the Attorney General's estimates and the Solicitor General's estimates going on at the same time because the same two men would not be able to be at both.

**Hon. Mr. Bales:** Madam Chairman, could we proceed and, may I suggest, if the members would be agreeable, may we sit a little beyond 10:30?

**Mr. Lawlor:** I doubt we can get the Ontario Municipal Board over that quickly. Let's go on to land compensation and see what we can do.

**Madam Chairman:** All right. Thank you. Who wishes to be the first speaker on land compensation?

**Mr. Renwick:** Madam Chairman, I'd like to ask one question of the minister on the Land Compensation Board, again registering many, many times now, my concern that the chairman of the board is not here. It is a new board. It is developing, so far as I can see, a very sound jurisprudence in appeals, which jurisprudence has been lacking, and has been making some valuable contributions to this problem.

Is it the intention of the government to have the matter of the compensation for the sand dunes in Prince Edward county referred to the Land Compensation Board? Is that the procedure by which compensation for those dunes will be established?

**Hon. Mr. Bales:** It is one of the procedures. It may well be.

**Mr. Renwick:** Is there any alternative procedure which the government could possibly use? As I understand it, this would apply—

**Hon. Mr. Bales:** The parties can negotiate.

**Mr. Renwick:** The parties can negotiate and agree on a settlement?

**Hon. Mr. Bales:** Yes.

**Mr. Renwick:** Now then, do you—

**Hon. Mr. Bales:** They can go to the Board of Negotiations.

**Mr. Renwick:** Let's pursue this a little bit. The government of the Province of Ontario granted what has turned out to be a disastrous lease of a right to take the sand from those dunes. It seems to me that from the point of view of both parties a negotiated settlement is not the way in which the Province of Ontario should make the decision about the value to be paid for the dunes.

On the other hand, I cannot concede that the proper price to be paid is something called fair market value of the balance of the term of that lease. I think that the amount which might be awarded would be unconscionable.

**Hon. Mr. Bales:** What I am getting at is that it is to be acquired by expropriation. Therefore, all provisions of the Expropriations Act will apply.

**Mr. Renwick:** This is what concerns me. Does it really make sense?

**Hon. Mr. Bales:** Surely you wouldn't say under this Act that when it's public land, these provisions of the Act should apply and in this other situation that those provisions of the Act should apply? It's a public Act and you and I would want it to apply equally to those situations.

**Mr. Renwick:** Yes. I am suggesting to the minister—

**Hon. Mr. Bales:** This is where you and I differ. There are many cases where we differ and, as much as I may respect you, we differ because you say in this case, don't let

the Act apply, just certain parts of it. You want to differentiate.

**Mr. Renwick:** I am delighted the minister has raised that point. On two occasions now—one being the sand dunes one—I think it was improper that that Act, which was designed for the purpose of meeting situations other than this kind of situation, was misused by the government or hasn't been used by the government. The other was the acquisition without recourse to the Act and without a public hearing as to necessity on the question of Cedarwood, that town out by Pickering airport.

**Hon. Mr. Bales:** Yes, but Cedarwood hasn't been expropriated.

**Mr. Renwick:** That's the problem! In fact, to be fair to the people in the area concerned, there should have been an expropriation.

**Hon. Mr. Bales:** There will be.

**Mr. Renwick:** There will be only after you have blockbusted the area.

When the time comes for the hearing to be held, which is provided for under the Act, a substantial part of that area will have been acquired by the government by private negotiation. If one will look back at the record in the Legislature at the time this bill was passed, we clearly pointed out that there are situations in which the fairest way to deal is to expropriate. You have everybody entitled to exercise all those rights and privileges and powers which are involved in it.

I'm suggesting to you that we in this party are not going to be so hidebound with consistency that we are going to permit an injustice to take place. In my judgement, the application or the non-application of the Expropriations Act to the Cedarwood area—

**Hon. Mr. Bales:** We are really talking about Sandbanks at the moment.

**Mr. Renwick:** I'm talking about the airport right now. The minister is suggesting that somehow or other we weren't consistent.

**Hon. Mr. Bales:** My remarks were directed in reference to the Sandbanks.

**Mr. Renwick:** All right. I'm saying that so far as Cedarwood is concerned, the government should have had enough sense to take that property, to expropriate it, so that everybody would have an opportunity to make a positive presentation in the initial stages; and then to go on to compensation rather than

to have the government engage in the blockbusting part.

When we come to the situation of the grant of the lease of the sand dunes, then you have a situation where a public uproar has required the government to so investigate it that they have come to the conclusion that they made a bad deal. Now they state that they are going to expropriate that lease and that they are going to be governed in their principles by the Expropriation Procedures Act. That in my judgement means that when they go either to private negotiation or to the kitchen table conference of the Board of Negotiation, they are governed by the provisions of that Act, which state that fair market value must be paid. Certainly that is the case if they go to the Land Compensation Board.

My concern is—and it's simply a warning to the government—that I think you would be politically unwise to get yourself in the position where, on the principles of land compensation cases, you are going to expropriate that lease at a price which should not be paid for it, or even to come anywhere near getting yourselves into that kind of a trap, bearing in mind the profit which has already been made by the lessee from the right to take the sand from those dunes and to use it for the purposes of his business.

That's a little gratuitous political advice which I think the government would be wise to take and not to follow a foolish consistency in this matter.

**Hon. Mr. Bales:** Always willing to accept advice.

**Madam Chairman:** Mr. Riddell.

**Mr. Riddell:** I don't know whether this is the place to bring up what I'm concerned about, but landowners may be sitting on land that is worth \$3,000 an acre at the present time, but if it happens to be zoned agricultural, the land all of a sudden becomes worth \$300 an acre. Will these landowners be compensated, and do they make an appeal to this board if they don't feel they are being justly treated?

**Hon. Mr. Bales:** Yes.

**Mr. Riddell:** All right. My next question is, right at the present time, with nuclear power coming across some of the counties, Hydro is out now assessing the land, and I am getting all kinds of correspondence in connection with this. Apparently Hydro's assessment of this land is away below county as-



assessment; do they also make an appeal to this board?

**Hon. Mr. Bales:** I'm sorry, I didn't quite hear you.

**Mr. Riddell:** In connection with this nuclear power that is coming across various counties, Hydro is now out assessing the land and its assessment is away below county assessment, as I understand it. Do these farmers appeal to this board?

**Hon. Mr. Bales:** They have the right to.

**Madam Chairman:** You are through are you, Mr. Riddell?

**Mr. Riddell:** Yes.

**Madam Chairman:** Mr. Wardle has a question.

**Mr. T. A. Wardle (Beaches-Woodbine):** Madam Chairman, to the Attorney General. I'm wondering what the position of a landowner would be if his property is expropriated by any public body and he's given notice. He moves, and later on the public body decide they really do not in fact require this property for their purpose. Is he in a position where we would have to bid to have his property back? Is there no system where, after two or three years, he could have his property back if it is not required for the purpose for which it was expropriated?

**Hon. Mr. Bales:** He's got the right of first refusal under the Act.

**Mr. Wardle:** I beg your pardon?

**Hon. Mr. Bales:** Under the Act he has the right of first refusal.

**Mr. Wardle:** But as I understand it, his right of first refusal would be at the prevailing price two or three years later, but not at the price at which it was expropriated. He may then be bidding in the open market at highly inflated prices for the home that he once lived in.

**Hon. Mr. Bales:** That's true.

**Mr. Wardle:** Should he not be protected some way in those circumstances?

**Hon. Mr. Bales:** Yes, but in most instances it will not be two or three years.

**Mr. Wardle:** There could be a major development that would come right on the fringe of his property.

**Hon. Mr. Bales:** What is worse, it might be rezoned or something in the interim.

**Mr. Wardle:** Do you not feel that in a situation like this a person should be protected against a situation that may occur beyond his ability to change the situation?

**Hon. Mr. Bales:** Well, if he is going to get it back, he has the right over anybody else to acquire that land. If it has improved in value then he is going to acquire a more valuable asset.

**Mr. Wardle:** I am thinking of a particular person whose property may be expropriated to build a new school, but then the school board decides it does not require the row of houses for that school. Now, the fellow may already be expropriated—

**Hon. Mr. Bales:** That's true.

**Mr. Wardle:** —but in two or three years, when the school board makes the decision not to proceed, perhaps he would like to move back to his house.

**Hon. Mr. Bales:** Land doesn't normally go down in value, but if it did, he would have acquired it at that value. If it's more valuable, then he acquires it at whatever is the reasonable value.

**Mr. Wardle:** Yes.

**Madam Chairman:** Does item 4 carry?

**Mr. R. G. Eaton (Middlesex South):** I want to come back to this statement about appealing the zoning. Is the minister saying that at present if a township rezones an area or creates it as an agricultural area, one can appeal to the Land Compensation Board for compensation?

**Hon. Mr. Bales:** No, no.

**Mr. Eaton:** This is the statement you made.

**Hon. Mr. Bales:** No, Mr. Riddell said it be valued for one thing, but it was zoned for agricultural use; and they were offering compensation at the lower value for agricultural use.

**Mr. Eaton:** No, he—

**Hon. Mr. Bales:** Now, just a minute, Mr. Eaton, I'll come back to you. He felt that what they were offering was not really the proper value. He asked if he could appeal to this board in reference to that value, and the answer is yes. If the appeal is in reference to rezoning or the zoning of a property,



that is a matter for the Municipal Board, not this board.

**Mr. Eaton:** But what he was getting at was the lowering of value because it was zoned from one to the other, wasn't it?

**Mr. Riddell:** Well, first of all, I want to know if he will be compensated. If he can get \$3,000 an acre for his land, but it's zoned agricultural and now is worth \$300 an acre, does he take that loss or will he be compensated? And who does he appeal to if he is not compensated?

**Mr. Eaton:** I think that point was missed.

**Madam Chairman:** Does item 4 carry?

**Mr. Eaton:** Well, we haven't got an answer on that!

**Hon. Mr. Bales:** Well, we are dealing with two things: one concerns the Municipal Board, and the other involves land compensation.

**Mr. Eaton:** But at present there is no system of paying for devaluation of land because of rezoning?

**Hon. Mr. Bales:** No, none whatsoever.

**Mr. Eaton:** Right.

**Madam Chairman:** Does item 4 carry?

**Mr. Renwick:** Madam Chairman, it has only recently come into my possession, but I would ask the minister to look at a chapter in this booklet, "Indian Life and Canadian Law: Report on the Ontario North," published by the Canadian Civil Liberties Education Trust, which sets out on pages 5, 6, 7, and 8 the flooding of One Man Lake by the Ontario Hydro-Electric Power Commission back in 1955, in circumstances which would indicate that quite likely there was no effective grant of rights by the Indian band concerned to the Ontario Hydro.

I don't pretend to know all of the legal intricacies which are involved in it, but I think it would be advisable and helpful if the minister's department would look at this disastrous story which is told on these pages, because of the question of determining whether or not, even at this late date, it may well be that the Indian community in that area were entitled to compensation. There were apparently some 19 families which have had some, but little, compensation for what was taken from them. And it was apparently taken from them in circumstances in which

they didn't have the benefit of legal or other advice.

This booklet which I just received this morning was published at the end of April of this year. I would ask, Mr. Minister, if that could be looked into in a neutral sense for the purpose of seeing whether or not it should be referred to someone else, or whether it may be that they are entitled to legal aid certification for the band or for the families that suffered this dispossession. Could he see whether or not the claim, or the complaint, which is made in these pages deserves, even at this late date, compensation.

**Hon. Mr. Bales:** That is the one that was received, I think, just a week ago — within the last week.

**Mr. Renwick:** Yes, I got the copy today.

**Hon. Mr. Bales:** We have made a note and we will have it looked into. We will look at that.

**Madam Chairman:** Will item 4 carry?

**Mr. Renwick:** Madam Chairman.

**Mr. Lawlor:** Madam Chairman.

**Mr. Cassidy:** Madam Chairman, on a point of order here. This continuous asking whether item 4 will carry, when it is obvious that members from this side of the table continue to have questions to raise—

**Madam Chairman:** Well, Mr. Lawlor has not indicated to me, up to now, that he wished to speak on this item—

**Mr. Cassidy:** I just constantly hear this refrain.

**Madam Chairman:** —and then he has just now, at this moment, indicated it.

**Mr. Cassidy:** It's a matter of decorum in this committee. It seems to me that it is not necessary to raise that every two or three minutes, that's all.

**Mr. Lawlor:** Madam Chairman is anxious to terminate the proceedings.

**Mr. Wardle:** We wouldn't want to have a lull in the proceedings.

**Madam Chairman:** When members stop indicating they wish to speak, I think I am perfectly correct in assuming that there is no further discussion. Did you want to say something, Mr. Lawlor?

**Mr. Lawlor:** Oh yes, Madam Chairman. Not very much. How many cases were handled by the Land Compensation Board last year?

**Hon. Mr. Bales:** Applications were 218.

**Mr. Lawlor:** And the appeals rise from there, I take it, to the Supreme Court of Ontario? Have you any idea how many appeals went from there to the higher court?

**Hon. Mr. Bales:** No, I don't have that, Mr. Lawlor.

**Mr. Lawlor:** Well, you can get that for me later on. Just one other question. On transportation and communication, the previous year, the estimate there was—

**Hon. Mr. Bales:** Just a minute. Can I just correct that? I gave you the figure 218?

**Mr. Lawlor:** Yes, 218.

**Hon. Mr. Bales:** No, that's not right. Applications received 1972-1973, were 87.

**Mr. Lawlor:** And judgements or determinations?

**Hon. Mr. Bales:** Applications completed, by arbitration—32; by settlement—25; applications withdrawn—9.

**Mr. Lawlor:** The item under transportation and communication for this year is \$24,000. The previous year it was \$43,500. Why the considerable reduction under that item?

**Hon. Mr. Bales:** Transportation and communication? No, it was in the 1972-1973 budget, \$31,700. This time it is \$24,000.

**Mr. Lawlor:** Oh, I am looking at the estimates of last year, which were \$43,500.

**Hon. Mr. Bales:** Mr. Pukacz, perhaps, could assist.

**Mr. Pukacz:** In last year's estimates, the Land Compensation Board, the Board of Negotiation and Expropriation Investigations were combined into one vote.

**Mr. Lawlor:** Oh. Well that helps to explain it.

**Mr. Pukacz:** If I may, I could—

**Hon. Mr. Bales:** That's all right.

**Mr. Lawlor:** On with the Municipal Board, Madam Chairman. Let joy be unconfined.

**Mr. Renwick:** Madam Chairman, could I ask the minister, there is no report of the Land Compensation Board, or is it something which I have missed?

**Hon. Mr. Bales:** There are decisions that come up.

**Mr. Renwick:** There is no report? Is it going to be customary that a report be available?

**Hon. Mr. Bales:** It hasn't been. We haven't had one. They report their decisions, each one as they come up.

**Mr. Renwick:** I understand that, but again along the lines of what my colleague from Lakeshore had to say at the beginning: if the chairman is certainly not going to be here, it would at least be most helpful to have a report. Then we wouldn't have to ask that kind of question. Madam Chairman, I would ask the minister to now have a look, in consultation with the chairman—

**Madam Chairman:** Excuse me, Mr. Renwick, it's just coming up to 10:30. I was going to say before the motion for adjournment, shall we consider sitting until, I'll say, 11 o'clock, or do you wish to sit tomorrow morning? Could I have an expression of opinion?

**Mrs. Campbell:** I don't think either—surely there are other alternatives.

**Mr. Martel:** Madam Chairman, did you make this decision unilaterally? You on your own, in your wisdom?

**Madam Chairman:** It appears to me, Mr. Martel, that we have an estimate which is almost complete. We have a very considerable backlog of work ahead of us, and I think that it is important enough that we should try to complete what we are doing. May I please have an expression of opinion from the committee as to whether or not you wish to continue this evening or whether you wish to sit tomorrow morning.

**Mrs. Campbell:** No, Madam Chairman.

**Mr. Martel:** With the greatest respect, Madam Chairman, you just can't bulldoze the committee like this. There are rules and there are regulations under which this House operates.

**Madam Chairman:** We are within the rules.

**Mr. Martel:** You are not within the rules. First of all, to sit past 10:30 you have to get a motion.

**Madam Chairman:** Well, I am asking for guidance from the committee.

**Mr. Martel:** Secondly, to sit tomorrow is in contravention to the way these committees were set up. They were designed to sit concurrently with the House.

**Mrs. Campbell:** That is right.

**Madam Chairman:** No, no.

**Mrs. Campbell:** Oh yes.

**Madam Chairman:** Sitting concurrently with the House was a courtesy which was established at the very beginning. But in any case, the question becomes, what is the will of the committee? Will you sit this evening and extend the time or will you decide to sit tomorrow morning at 10 o'clock?

**Mrs. Campbell:** Why is there just that alternative?

**Mr. Lawlor:** Only two alternatives?

**Mr. Martel:** You want to run it to suit yourself.

**Mrs. Campbell:** What about tomorrow afternoon, for example?

**Hon. Mr. Bales:** Madam Chairman, may I make an explanation. I did not ask the chairman but I told her my particular situation. I leave tomorrow noon, immediately after cabinet, to go to Ottawa. I have three days of meetings with the Justice Minister and the attorneys general. If it were convenient to the members, I would be pleased to sit a little longer and finish the next item. That is my problem.

**Mrs. Campbell:** I think we owe—if we had that explanation, we might not have been so upset about the way it's put.

**Mr. Lawlor:** If you had promised to raise all the points that we wanted you to raise with Mr. Lang, we might—

**Madam Chairman:** May I have a motion please?

**Mr. Wardle:** I move we sit until 11 o'clock.

**Madam Chairman:** Thank you. Carried?

**Mr. Renwick:** And reconvene after question period on Thursday.

**Mr. Cassidy:** Yes, if we could do that—

**Mrs. Campbell:** Well, we can't do that in the light of what—Let's be reasonable.

**Mr. Martel:** May I ask the Attorney General a question before we continue? What would be wrong with reconvening next Wednesday for a while?

**Hon. Mr. Bales:** Oh, you can if you wish to. We are nearly through, and you know it is always part of the co-operation of the House—

**Mr. Cassidy:** Perhaps I could ask the minister something. There are a number of questions which I and other members may wish to raise concerning the Ontario Municipal Board. Since you have had officials from the department with you on matters relating directly to the department, and since the OMB is a major responsibility to the Attorney General, is it your intention to have the chairman of the OMB with you as well?

**Hon. Mr. Bales:** We dealt with that earlier today, Mr. Cassidy.

**Mr. Cassidy:** I am sorry, I wasn't here at the time.

**Hon. Mr. Bales:** I am sorry, too.

**Mr. Cassidy:** Well, could you say what you said at that time, please?

**Hon. Mr. Bales:** What I said at that time was that I would be dealing with the estimates and it was decided that I would handle them for the whole ministry. It was suggested to me that perhaps another year I would consider bringing the chairmen of various boards, and I said I would be glad to consider it.

**Mr. Cassidy:** Madam Chairman, would the minister be willing to reconsider this, considering that the rest of the estimates—

**Hon. Mr. Bales:** I have given the decision now. We just had a discussion on it this afternoon, and I think Mr. Lawlor appreciated the point very well.

**Madam Chairman:** Mr. Lawlor, was there another point you wanted to raise under item 4?

**Mr. Lawlor:** No, I am finished.

**Mr. Renwick:** Madam Chairman, I had a suggestion to make to the minister. It seems to me that the board has now been functioning sufficiently long and the experience of



the board would indicate that there may well be one or two marginally important matters that should be considered by way of an amendment to the—

**Hon. Mr. Bales:** Legislation?

**Mr. Renwick:** —Procedures Act. One of them, by way of jurisprudence, the board has dealt with, and that was the difficult question in the sole proprietorship where a business was expropriated, as to whether or not in arriving at the net value of the business you do or do not deduct a fictional salary to the proprietor in arriving at net worth. It makes a great deal of difference to a small business or a sole proprietorship whether you end up with a business, for example, which you say is worth \$10,000, or whether you attribute to the proprietor his salary which, we say, is then fixed at \$6,000 instead of \$10,000 value, the value of the business is considered to be \$4,000, with whatever effect that may have when the multipliers are applied to determine the value of the business for expropriation purposes. Fortunately, through the jurisprudence of the board, they decided that in a more liberal way, and it's been a satisfactory one.

The other area which concerns me, and which I think may well deserve to be looked at from the point of view of what happens to the sole proprietor of a business, is the situation where the proprietor may be in occupation of a store premises of some sort, or a small business premise formerly under a lease, and the lease has run out and they just haven't gotten around to signing a new lease.

There is every expectation on the landlord's part that the tenant will continue on with his business and the tenant's expectation is why sign a new lease, or why have an agreement extending the existing lease. They tend to be dealt with as if they were ordinary house tenancies falling into a monthly tenancy category. The result then is that when an expropriation takes place the sole proprietor of the business, which as I say, on one horn of the dilemma has now been resolved in his favour in terms of this attributing of the salary to him, spaced with the other one that he has no protection in his tenure of the store, and therefore instead of having some factor involved in terms of being able to bring evidence to the landlord that yes, he intended that the man would continue on, there was no intention of him giving notice on the one hand or the other, that some alleviation of that strict rule that in the absence of a lease you can

be kicked out on a month's notice, or two months' notice and, therefore, you are not entitled to compensation for the unexpired term of a lease, should be looked at in situations in which small store proprietors and others may be seriously affected.

I would ask, not only with those points in mind, but with the jurisprudence of the board in mind, that perhaps the ministry should ask the chairman of the board, or have someone in his department who follows the matters related for land compensation boards, to study the jurisprudence, see what the problems are and see whether or not, after the years of experience that we've now had—which isn't all that long—some amendments might not be framed and brought into that Act.

**Hon. Mr. Bales:** Yes, there may need to be some.

**Mr. Renwick:** It would be helpful if they would be looked at.

**Mrs. Campbell:** Madam Chairman, I wonder if I could ask a question on this particular item? I am not familiar with the way in which this board has been functioning, but one of the things that bothered me about the whole matter of expropriations was that there was not built up any real jurisprudence on the matter of the small residential home, although you had so much buildup about big business, because, for obvious reasons, they could get forward with all the talent in the world and all the expertise. I wonder if this board is now building up some kind of jurisprudence on the matter of the small individual, residential homeowner? I don't know how effective it is being but that certainly was the effect of the law before.

**Hon. Mr. Bales:** Yes, a number of cases of expropriation of individual homes have come before the board, and because their decisions are all written we do have that kind of record. We're gradually building it up.

**Madam Chairman:** Shall item 4 carry?

Item 4 carried.

**Madam Chairman:** Item 5, the Ontario Municipal Board. Mr. Cassidy.

**Mr. Cassidy:** Madam Chairman, I have a few questions to raise about the Municipal Board. I've had a look at the 1972 report of the Municipal Board, which was signed by Mr. Palmer, and the 1971 report of the board, which was signed by Mr. Kennedy, and as it happens, the sections on planning

specifically are identical so that if there has been a change in policy of the board it is not reflected in the annual report which has been issued by the chairman.

However, a number of things have happened in recent months as far as board decisions are concerned that do appear to reflect a change in policy, and I wonder if the minister could comment on those? Some of them are procedural matters more in fact than the actual outcome of the decisions, but I think the minister is aware that the outcome of the decisions is raising great concern in the city, in the city of Toronto in particular, because it appears that the board has taken a very decided shift of policy as a result of the change of chairman.

Perhaps I could ask first, does the present attitude of the Municipal Board reflect any change in government policy as far as the board is concerned?

Hon. Mr. Bales: No, I don't see that it has. We brought in some changes in legislation last year, you may recall.

Mr. Cassidy: Yes.

Hon. Mr. Bales: Formerly there was that procedure whereby one person would hear it and then the decision would be concurred in by two people. I was always disturbed by that. We changed it. I'm in favour of more than one-member hearings but, in some instances, one-member hearings are fair and reasonable.

There was a very large backlog of appeals to the OMB in reference to land division situations, in rural Ontario or various parts of Ontario, and the previous chairman of the board was very disturbed by this, as was I, and we brought in that legislation. It was well accepted in the House, I think by all sides. That was used to enable the board to deal with that substantial backlog of hearings in those cases.

At the time it was brought in I said in the House, and certainly that was from my discussions with Mr. Kennedy, that they would tend to go to more hearings where there were two or three members actually present. That has largely taken place, except in the land division appeals. There, they have proceeded with one member dealing with them as necessary. If there is a change of philosophy, that's the change.

Mr. Cassidy: Okay. May I say to the minister on that particular point that the evidence before the select committee on the Ontario Municipal Board reflected a good

deal of concern at the amount that hung on the decision of one person in the case where the board chose to use only one member in order to hear an important application.

Hon. Mr. Bales: Particularly when he heard it and then discussed with another member.

Mr. Cassidy: No, under the new legislation it was a situation where that member heard it and then made a decision himself.

Hon. Mr. Bales: There are very few cases where that was done. I think there were two, wherein Mr. Kennedy sat as a single member last fall, last October, prior to his retirement.

Mr. Cassidy: Well, there was one which fortunately the cabinet has now referred back to the board—

Hon. Mr. Bales: That's right.

Mr. Cassidy: —the speech therapist rezoning in the city of Ottawa, which was heard before one member. Having appeared there personally, I must say I was greatly concerned at the results of that hearing and at the fact that it seemed to me that the decision flowed out of having only one member—and that two members could not have arrived at that kind of a decision.

I was glad that the cabinet did reverse it, but I am unhappy at the number of things ongoing to cabinet. If some of them are going to cabinet on appeal because of one-member hearings, then perhaps the government would reconsider.

Hon. Mr. Bales: I couldn't comment at the moment. The appeals have one, two or three members on them. I know the one you are speaking about.

Mr. Renwick: Yes.

Hon. Mr. Bales: And I recognize that there was one member on that one.

Mr. Renwick: Okay. Madam Chairman, the board in the Quebec Gothic case abandoned the practice of the previous chairman of seeking to co-operate—

Madam Chairman: Mr. Cassidy, Mr. Bales informs me that this is before the courts and I would think it would be out of order.

Mr. Cassidy: Well, I'm not talking about the content of the case, I'm talking about procedure. I'm not sure if that is in order or not.



**Hon. Mr. Bales:** Well, the whole matter is before the court at the present time. I prefer not to discuss it when it is before the court.

**Mr. Cassidy:** I must say this makes life rather difficult.

**Hon. Mr. Bales:** I didn't take it before the courts.

**Mr. Cassidy:** Well, in that case, I will move over to the other decision which has only just appeared—the decision on the West St. James Town application; which is not currently before the courts or anybody else, although the time for appeal has not yet—

**Hon. Mr. Bales:** I am not dodging it but it is still open to appeal and I have been told it is to be appealed—so I don't want to discuss it.

**Mr. Cassidy:** Well, I'd appeal to my friend from Lakeshore about that. It seems to me that that makes life exceptionally difficult here because of the fact—

**Hon. Mr. Bales:** I am not attempting to make life difficult but there are the rights of these people which must be carefully considered. The period of time has not passed, as I recall it, and I have been informally told the matter is going to be appealed.

**Mr. Cassidy:** Can I have some advice from the member for Lakeshore on that?

**Mr. Lawlor:** I think you are perfectly legitimate on the Quebec Gothic thing—the matter that I believe you want to discuss is not a matter which would be concerned with the courts. It is the business of why didn't the Ontario Municipal Board follow precedent and do what Mr. Kennedy had done on many previous occasions, for far less reason—namely, refer the matter back to the council of the city of Toronto so that it could have full deliberations on the matter.

**Hon. Mr. Bales:** I think, Mr. Lawlor, that is one of the matters. There are several actions on at the moment, and I think that is one of them that is before the court.

**Mr. Lawlor:** Well, all right, but I think Mr. Cassidy and I feel, certainly myself, that we are entitled to discuss the present attitude and philosophy of the board as thus far indicated in established decisions. The fact that you have to go away—and I commiserate with you—doesn't in any way mean that you can truncate or terminate these estimates—

**Hon. Mr. Bales:** No, no. Mr. Lawlor.

**Mr. Lawlor:** —without a full discussion of this matter.

**Hon. Mr. Bales:** I don't mind discussing the philosophy of the board. That's fine. I don't want to discuss that particular case because by so doing I could well prejudice those people. Now if you want to discuss general philosophy of the board—fine.

**Mr. Cassidy:** Unfortunately the general philosophy of the board is reflected in their decisions and more specifically in decisions that have recently been published. In these two cases in Toronto the minister could stand on the power of review which exists in the board under one of the sections of the Act and say that any decision taken by the board over the last two or three years is not discussible here because they have the power to repeal or change their order at any time.

**Hon. Mr. Bales:** No, no. I don't take that position at all.

**Mr. Cassidy:** Okay. Well then, on a question of philosophy. The board has taken the view, and it was expressed for example—

**Mr. Lawlor:** No. Don't mention any particular case.

**Mr. Cassidy:** No. Well I'll mention something no longer before us right now. It was elucidated in the case of the Spadina Expressway decision for example, where the matter very cogently arose of whether or not all factors ought to be considered by the board. And in that case there was some disagreement among the members.

The disagreement arose because the then chairman felt that the Spadina application could be reviewed from the beginning. The other members tended to agree, although the content of that decision indicates that they seized themselves of the substance of the objections to the additional application for funds on the Spadina hearing. They didn't simply stop by saying that the need had been established in 1963 and the question of need need not be considered again.

In fact, Mr. Shub stated specifically in the Spadina decision that the application was unusual because approval had been obtained in 1963. Were it not for the additional expenditure, and perhaps the very strong opposition that had developed, a further hearing would not be necessary. However, he said in the circumstances it would appear that the board would have jurisdiction to inquire into



those matters specified in section 62 and with regard also to section 68 of the Act.

As the minister knows, section 62 allows the board to consider all matters related to an application and not just specific financial matters, nor just specific objections which had been raised by objectors. It has been the practice of the board to consider all matters, because that is the way the law has stood. I think if you go back to the Sherway or Yorkdale decision, or something like that, it was clearly established that not just objections, but all relevant matters should and ought to be considered by the board. It, therefore, took on the practice of considering these matters from the beginning, ab initio, rather than simply seizing only on the objections.

More recently, the board has enunciated the doctrine that only objections should be considered. I wonder what the minister would say to that change in policy and whether that is consistent with the government's view of what the OMB should be doing?

Hon. Mr. Bales: I think the Spadina decision was somewhat different, as I recall reading that long and very detailed decision. I think that the two situations are entirely in order. The board considers all factors in these things, particularly in these various zoning matters. I think they should hear all points of view on it from all parties and, in my view, so far as I am aware, they have been. They have to give consideration to the evidence. They have to decide on their own what would be the fair and proper decision under all circumstances.

Mr. Cassidy: If I may quote from a recent recent decision, which states:

However, where opposition to an application exists, then the board requires a public hearing to be held which, inter alia, inquires into the nature and merit of such objections.

Now is that consistent practice?

Hon. Mr. Bales: They established a procedure as to dealing with that matter. I think you are probably referring to a recent decision. They established a certain procedure for dealing with it, the matter having been, I believe, before the board on several occasions in that same general area and the board having heard various applications in that area.

Mr. Cassidy: The minister will agree that up until recently it has been the practice for the board to have the applicant, which is

normally the municipality in effect, state the merits of its case.

Hon. Mr. Bales: Yes, at times, and at times differently. I mean they have their right to establish their own procedures.

Mr. Cassidy: Would the minister feel that when they change the procedure and do not require that the applicant state the case at the outset, does that not represent quite a substantial change in the practice of the board?

Hon. Mr. Bales: It depends on the circumstances and the situation. In all of these the board has the authority and the right to establish its own procedures in dealing with these things. They are not following government policy when they do so. They are following their own determination.

Mr. Cassidy: Madam Chairman, the board states that it is bound by the principles of natural justice. It would take the lawyers to establish all of the implications of that statement, but its practice in carrying out that policy has been that in effect the people who have required that a hearing be held by lodging objections will be entitled to know the merits of the case as the applicant sees them by having them laid out before the board. Subsequently they lodge their objections and the board considers the matter with all of the various factors which it brings to bear.

In the minister's view does it still conform to natural justice for the municipality no longer to be required to prove the merits of the case but for the objectors to simply be put on the spot to more or less prove their objections from the outset?

Hon. Mr. Bales: They establish their own ways of dealing with these things. The party certainly must know the full case and have a chance to refute or deal with it and then the board makes a decision on the basis of the evidence before it.

Mr. Cassidy: Quite simply, Mr. Minister, in a recent case that isn't what happened.

Hon. Mr. Bales: Oh yes, but the board has its right to set its own procedures.

Mr. Cassidy: Perhaps I could ask the minister—

Hon. Mr. Bales: It must be an autonomous board in that way.

It is given that authority and I think it's an important authority—that it should have

this right. It shouldn't abuse it but it should be there.

**Mr. Cassidy:** Is the minister aware then of the fact that, by all the evidence one can judge from, the board has changed its tenor or its temper very substantially as a consequence of changes in the composition of the board? Is that kind of quixotic change in accordance with government policy?

**Hon. Mr. Bales:** Let's bear in mind that there hasn't been a great change in the composition of the board. There has been a change of one person.

**Mr. Cassidy:** That's correct.

**Hon. Mr. Bales:** The chairman.

**Mrs. Campbell:** Yes. It changed the whole thing.

**An hon. member:** It changed the whole setup.

**Hon. Mr. Bales:** The same members are there; and the members are dealing with the matter. I am sure that there is no dictation to those members as to what their procedure should be.

**Mr. Cassidy:** You know, Mr. Minister, I don't hold too much brief for a number of the members of the board except for the chairman, both present and past. It seems to me that under Mr. Kennedy the baser instincts, if you will, or the more irresponsible instincts, of a number of members of the OMB were held in check because of the integrity and the sense of responsibility of the chairman.

**Hon. Mr. Bales:** Madam Chairman, I hold all members of that board in high respect. I think they have served well and ably, many of them over a considerable period of time, and I don't lightly hear references to their "baser instincts" in dealing—

**Mr. Cassidy:** I changed that to "more irresponsible," which perhaps is more accurate.

**Hon. Mr. Bales:** I think that we are fortunate in the quality and the abilities of the men who serve on that board.

**Mr. Cassidy:** I profoundly disagree, Madam Chairman. It seems to me that the need for reform of the board now cries out because of the way in which the board is behaving. The board, under its chairman, Mr. Kennedy, had clearly assumed the role of a protector

of minority interest. That has now been abandoned. The action of the board—

**Hon. Mr. Bales:** Is that really the function of the board?

**Mr. Cassidy:** That was enunciated on a number of occasions.

**Hon. Mr. Bales:** By whom?

**Mr. Cassidy:** Mr. Kennedy.

**Hon. Mr. Bales:** No. The function of the board is to hear appeals from municipal authority, to give individuals the right to a further hearing.

**Mr. Cassidy:** That's correct.

**Hon. Mr. Bales:** The board is required to hear all sides and then to adjudicate on the matter.

**Mr. Cassidy:** Perhaps I can read from the current report.

**Madam Chairman:** Excuse me, Mr. Cassidy, before you proceed. It is now coming up to 11 o'clock and I have an indication from Mrs. Campbell that she would like to speak when you are through. Are there other members who would like to speak? Mr. Lawlor would also like to speak. Therefore, I think that this is perhaps a fitting time for us to adjourn and we'll reconvene tomorrow morning at 10 o'clock.

**Mrs. Campbell:** Madam Chairman, may I suggest this? When the minister made his position clear to us, I, for one, was quite prepared to sit to accommodate the minister. Is there not, surely, some courtesy owing to those of us who are involved? I am deeply involved with the city of Toronto's private bill tomorrow at 10 o'clock.

**Mr. Lawlor:** Right, and so am I.

**Mrs. Campbell:** I would appreciate the same courtesy for us. If we are sitting this long, could we not continue and finish this item which is what you asked in the first place?

**Madam Chairman:** Do you want to extend this hour?

**Mrs. Campbell:** I would very much appreciate it because we are involved in other matters. If we could do that, perhaps the minister himself would like to finish tonight and give himself a little more time tomorrow if he's going to Ottawa.



**Madam Chairman:** Do other members share this sentiment?

**Mr. Cassidy:** I would suggest that this be held over, Madam Chairman. There is no objection to this committee taking on another set of estimates beginning on Thursday. We have maybe an hour or two more to go and this could be done next Monday or Tuesday when the minister has returned from his meetings in Ottawa.

**Mrs. Campbell:** No.

**Madam Chairman:** I think the members would prefer to continue, Mr. Cassidy. May I have a motion to that effect, please?

**Mrs. Campbell:** I would so move, Madam Chairman, that we continue.

**Madam Chairman:** Thank you.

**Mrs. Campbell:** Let's continue the estimates tonight and try for 11:30.

**Madam Chairman:** We're just going to finish this item. Please continue, Mr. Cassidy.

**Mr. Cassidy:** I think it's unrealistic—

**Mr. Wardle:** Madam Chairman, before you put that vote, I think the indication we had at 10:30 was that, hopefully, we would finish at 11. I think some of us feel that if we're finished at 11:30, fine, but if we're going on until 12 o'clock, this is a different matter. Some of us do have commitments tomorrow morning—a 9:30 meeting and a 10 o'clock meeting. If we go on to midnight and possibly past that I think it's asking a little too much of the committee.

**Mr. Lawlor:** All I can promise, Madam Chairman, is that I will keep my remarks very brief and pointed.

**Madam Chairman:** Have you very much more, Mr. Cassidy?

**Mr. Cassidy:** I have a few more questions. I really resent the way in which this is being rammed through. I really do. For this to be done at 11 o'clock at night—this is the way this government keeps on doing it and you do it here as well as in the House.

**Mr. Parrott:** I am sorry to say you took the same time there. You had lots of time. You spent three months on this particular problem.

**An hon. member:** You walk in at 10:25 and you want—

**Mr. Cassidy:** That's right. It's an important matter right now and it's important to the city and to the province because of the way in which the OMB has dropped its former role as a protector of good planning principles. I think it's just ridiculous.

**Mr. Parrott:** It's ridiculous for you to say that the members of that board were not highly regarded. We heard testimony after testimony.

**Mr. Cassidy:** There was clear evidence of bias by members of that board in recent meetings against citizens' groups and people before them.

**Mr. Parrott:** On only one occasion did we hear that a member of the board did not exercise his duty very well. That is just not a valid criticism. You were on that committee and heard it many times.

**Mr. Lawlor:** If you read the recent judgments you would change your mind.

**Mr. Cassidy:** That's right. The minister has said we cannot discuss recent hearings because they are possibly being appealed.

**Mr. Parrott:** You weren't talking about just recent hearings. You were talking about generalities of the past.

**Mr. Cassidy:** I am talking about generalities of the present as well. The problem is that this board will not come up before this committee again for another year. If the government continues to let the board function in the present manner, its irresponsibility will wreak havoc in a number of cities and a number of places. This matter needs to be aired, and to do it at 11 or 11:30 at night is ridiculous.

**Madam Chairman:** We have had a motion; I will put the motion.

All in favour of Mrs. Campbell's motion to continue to 11:30? Contrary?

The motion carries.

**Mr. Cassidy,** you have been going on now for some considerable time on a matter of philosophy, which the minister has now assured you is based on a principle that is inaccurate.

**Mr. Cassidy:** The minister has no philosophy on this matter, Madam Chairman; it is as simple as that.

**Madam Chairman:** I would ask you now to move on to your next point, because from the discussion we have just had it is apparent



to me that you have already aired this in another committee, which dealt in depth with the OMB. Perhaps this is something you have already said in another arena.

**Mr. Cassidy:** As a matter of fact, no, Madam Chairman.

**Madam Chairman:** Is it not? Well, suppose you continue with another point.

**Mr. Cassidy:** At the time that the select committee on the Ontario Municipal Board was sitting, which was during the summer and early fall of this year, there was a feeling that more responsibility should be given to the municipalities; that the Municipal Board's function as a court of final appeal should be preserved but in a much more restricted fashion than at present although, where a need arose, that kind of recourse should be available.

**Madam Chairman:** Mr. Cassidy, I would put it to you that that committee sat and discussed the affairs of the OMB in depth. We have all had access to the report. Could you bring up some new points?

**Mr. Cassidy:** Well, I would like to ask the minister about a few points that arose from that report.

**Hon. Mr. Bales:** The report is under consideration. I established an interdepartmental committee when the report was issued because it affects the Ministry of Treasury, Economics and Intergovernmental Affairs in particular, as well as my ministry and others. I established that committee so that the report could be analyzed; that is proceeding and, I think, is nearly finished. From that, of course, will stem legislation later in this session.

**Mr. Cassidy:** Perhaps the minister would be willing to share with the committee some of his reactions to the report of the select committee on the Ontario Municipal Board, in particular whether there are any recommendations flowing therefrom which he would be willing to implement at this time as a matter of administrative decision?

**Hon. Mr. Bales:** I am not going to implement it in part. I established the interministerial committee so that I can have input from the various areas, particularly the municipal affairs section of the Treasury ministry, which is closely associated with many of the problems. It was suggested that ministry should have the direct responsibility in some areas rather than the OMB.

**Mr. Cassidy:** More specifically, would the minister agree that the OMB should be relieved of the responsibility for approving capital borrowings insofar as the financial capacity of municipalities is concerned?

**Hon. Mr. Bales:** I think there is some merit to that, yes.

**Mr. Cassidy:** Does the minister agree with the recommendations that the power to create, dissolve, amalgamate and so on of municipalities should also be transferred and properly should be with the minister?

**Hon. Mr. Bales:** There are a number of facets to that; it is one of the matters that is going to be dealt with in the reports that are now being prepared.

**Mr. Cassidy:** Is the minister willing to implement section 35 of the existing Act in order that municipalities may have power to bring in unopposed bylaws without the need for OMB approval?

**Hon. Mr. Bales:** Not at the present time.

**Mr. Cassidy:** Could the minister explain why this could not be done at the present time?

**Hon. Mr. Bales:** Because there is a review of the whole Act going forward, and it will be dealt with by one bill.

**Mr. Cassidy:** Is the minister prepared to eliminate one of the steps in the assessment appeal process, as recommended by the committee?

**Hon. Mr. Bales:** I discussed that earlier tonight.

**Mr. Cassidy:** Okay, but I am asking you—

**Hon. Mr. Bales:** Well, you weren't here; we only see you the odd time in these estimates.

**Mr. J. F. Foulds (Port Arthur):** Madam Chairman, the minister is being unduly provocative.

**Hon. Mr. Bales:** I am not being provocative at all. If the member was ever here, he would know what went on.

**Mr. Cassidy:** It so happens that because of the way the government runs the House, Madam Chairman, I was in the House at that time.

**Mr. D. M. Deacon (York Centre):** It is the mistake of having legislation considered at the same time as the estimates.

**Hon. Mr. Bales:** Mr. Deacon, I recognize that.

**Mr. Cassidy:** Madam Chairman, a great amount of the changes in the OMB relate very closely with necessary changes in the Planning Act, and I wonder if the minister could share some confidences about that as well, in terms of how those two will interrelate in the current consideration in the Treasury ministry?

**Hon. Mr. Bales:** No, I haven't finalized my thinking on it because I want the views, particularly of those in TEGA, on the planning aspects. It's very closely allied with their area. I am administratively responsible for the planning areas of the Ontario Municipal Board, particularly in the TEGA section—intergovernmental affairs section.

**Mr. Cassidy:** In other words, you are washing your hands essentially of responsibility.

**Hon. Mr. Bales:** No, that is why I set up an interministerial committee. There are many experts in that area; mine is the administrative responsibility.

**Mr. Cassidy:** A couple of specific points: One is that our select committee was frustrated and lacked clear direction about policy emanating from the government to the OMB—therefore the amount of discretionary policy-making powers, if you will, which lay in an administrative tribunal. What steps have you taken in order that the government clarify its policy directions to the OMB and make them public?

**Hon. Mr. Bales:** There have been no steps taken to change the areas. They've always received their general understanding of government policy through reports, statements, and so on, particularly from the Minister of Municipal Affairs—and I've made no changes in that regard.

I anticipate changes in the board through legislation. I think it is time and I think that the OMB select committee report was a good one. I think when you are going to change the structure, it doesn't lie with one minister to make up his mind and merely submit it to cabinet, particularly when there is an area of expertise in another ministry. For that reason I thought it most important that I involve those people directly, and it was done very shortly after that report was tabled in the Legislature.

**Mr. Cassidy:** Do these estimates contain any funds in order that the OMB shall begin to edit and publish its decisions in a—

**Hon. Mr. Bales:** I arranged that a short time ago; the money is in here—

**Mr. Cassidy:** It is in here.

**Hon. Mr. Bales:** We have arranged that Mr. Kennedy would undertake that work and he is publishing the reports, or a summary of the most significant ones beginning for the year 1972.

**Mr. Cassidy:** You mean the 1972 decisions will be appearing in a short period of time. Is that right?

**Hon. Mr. Bales:** That is correct.

**Mr. Cassidy:** I'm very pleased to hear that. Do the estimates also contain funds for the establishment of an administrative branch in the OMB in order to rationalize the administration of the board?

**Hon. Mr. Bales:** No, there is money here for the administration.

**Mr. Cassidy:** There has been concern that under the previous chairman too much went through the chairman himself—when he functioned as his own administrative chairman—and that this should have been carried out by an official of the board rather than a member.

**Madam Chairman:** Does that complete for you, Mr. Cassidy?

**Mr. Cassidy:** No, a couple more questions. How many hearings has Mr. Palmer taken account of since his appointment?

**Hon. Mr. Bales:** I'm sorry I can't answer that.

**Mr. Cassidy:** I see. Has he sat on any, do you know?

**Hon. Mr. Bales:** Yes.

**Mr. Cassidy:** He has. I wasn't aware of that.

What does the minister intend to do about the bias against community groups which is being displayed by the board in recent applications?

**Hon. Mr. Bales:** I can't accept that. I think the board has functioned in a sincere and impartial manner.

**Mr. Cassidy:** That is not the assessment of outsiders.

What does the minister intend to do about assistance to community groups who wish to



appear before the Municipal Board; has the government any intentions in that regard?

**Hon. Mr. Bales:** There is some assistance I think available to individuals through Legal Aid.

**Mr. Cassidy:** And to community groups in cases where they—

**Hon. Mr. Bales:** No, only individuals at the present time the way it is set up.

**Mr. Cassidy:** Well, is the minister, under Legal Aid or some other means—

**Hon. Mr. Bales:** This was discussed earlier in the estimates by Mr. Renwick, I think, and others; we are going to ask the Legal Aid to review that kind of setup.

**Madam Chairman:** Thank you, Mr. Cassidy. Mrs. Campbell.

**Mrs. Campbell:** Well, Madam Chairman, perhaps I am the only one here who is not thoroughly aware of the report. I must say that I have had it, but I have been plunged rather suddenly into this, so I hope I may be forgiven if I cover ground that perhaps I shouldn't.

It's interesting that my friend here has referred to the Spadina Expressway decision, because one does forget history. One of the problems with that particular decision in the very first instance was a dichotomy at the board level—between their philosophy so far as it applied to a metropolitan project and as it applied to a local project. I wonder if this has been corrected? May I explain if I am not clear?

When a local municipality went for funding approvals at the OMB, it was absolutely essential that the complete project be before the OMB and that the funding for it be clearly spelled out. However, when you got to Metro this was not the same picture at all—I am talking now about regional government versus local.

They could go ahead on a procession basis. In other words, they could get initial approvals with initial funding and then not have to present plans at all for the completed project—either plans or fiscal planning for it. It struck me at the time, and it still concerns me, whether or not that, as far as the approvals are concerned, is something which has been considered.

Is there an opportunity to look at it now with other regional governments and the supporting area municipalities? I wonder whether that philosophy should be looked at by gov-

ernment and discussed with the OMB if they are still continuing in that vein. I don't know whether that's a part of the report or not.

**Hon. Mr. Bales:** It is, really, Mrs. Campbell. You touched on some of the very key factors in that whole Spadina thing because of your acquaintanceship with it at the level—

**Mrs. Campbell:** That's one of the things that made us angry at the former chairman that he would allow this at the time—then we turned out to love him. Isn't that strange history?

**Hon. Mr. Bales:** Well, it is to the degree that the problem was dealt with or in the report.

**Mrs. Campbell:** Oh, I see.

**Mr. Parrott:** There are areas for bulk approval in some instances. There are municipalities who choose to use that particular method versus the other, and I think—

**Mrs. Campbell:** I think the whole matter is one which I foresee having serious problems if there aren't some pretty careful guidelines laid down. There is the intermingling of the funding, not in an improper sense, between the region and the local municipality, and trying to establish some sort of ceilings for the regional government with this kind of a fiscal planning proposal.

**Hon. Mr. Bales:** It can't be much more complicated.

**Mrs. Campbell:** This is why I am raising it now. I take it that as far as the planning function of this board is concerned that that is something which you are reviewing at the present time? Could I just make this suggestion: —of course, I have to say that I do not see it as a proper function for the OMB. I think that by the time you've got this planning, and particularly in the light of what would appear to be a different approach, then that which gave confidence and assurance to the community versus the council is no longer applicable with the change in the chairmanship. I don't know that, but it would appear at the moment that that is the feeling.

I wonder then if the planning function per se is not something that should be done elsewhere and relieve the Ontario Municipal Board of it, since really they have no expertise in the planning area. It does disturb me that they should have so much of a voice. Am I asking again for something that you are not prepared to answer at this point?



**Hon. Mr. Bales:** No, I am interested because I've been on a municipal council as you were—I was not to the same extent as you were—but I see a great deal of expertise in the local area that goes into these matters. My thinking isn't finalized on it. It was discussed in the report very clearly. It will have to be considered and finalized before the legislation comes in.

**Mrs. Campbell:** I have just one more point, if I may. I think, Madam Chairman, that I take some issue with the minister's statement that the OMB should be autonomous. I think the courts should be autonomous. I think it is part of our whole philosophy. But you could not say that the courts functioned without some guidelines and some rules of practice and this sort of thing. It does concern me, when we hear that a tribunal of this kind should be left to set its own procedures, because I think it creates a great deal of a problem with the public if it builds up a procedure over a period of time and then, suddenly, without warning or notice, the procedure appears to be varied. I am concerned about that. If I can't go into these cases, and I quite agree that I should not, it leaves me out on a limb to try to put it across.

**Hon. Mr. Bales:** Well, Mrs. Campbell, I may have given a little erroneous impression when I say their "own" procedures. That doesn't mean to change those procedures at whim. They must have regulations so that people know what the rules are and can develop their own cases accordingly. They can't have one rule today and another tomorrow.

**Mrs. Campbell:** We are talking about two different things, I suppose. One is the matter of a procedure and one is a matter about the way in which they render decisions. I am talking now about their procedures. Surely in any tribunal there should be some way in advance of anticipating the way in which the procedures will be followed, and people won't have to argue procedurally every case. While you don't wish to discuss any of these cases, there has obviously been a very decided change in procedure. If the government feels that the board can go merrily on its own way, I must take issue with that both as a politician and a lawyer, because I think that gives us chaos in procedural matters.

**Hon. Mr. Bales:** I find it a little hard to find our points of difference here, because I wouldn't want them just to be able to estab-

lish any procedure and then vary it case by case. I want a regular procedure that the public understands.

**Mr. Cassidy:** This is precisely what happened, though.

**Mrs. Campbell:** Yes, I think there is a very good point here. I don't know how you can demonstrate it without referring to a case. There has been a distinct difference in the procedure, as I have looked at it from the time of the retirement of Mr. Kennedy through some—now I don't pretend to know all of the decisions of the OMB since then—of the ones with which I am familiar. The procedures have obviously varied, which also indicates, beyond the procedural question, a changing philosophy.

My friend over here is talking about philosophy and he doesn't wish us to get into it. I still say that the way you approach a matter does inevitably indicate your philosophy. Could I ask this question, since we can't go on with it here, at what point in time would the minister be prepared to look at the situations which have developed, which have caused concern—undoubtedly after the last available appeal? Could I have some assurance that, in fact, whenever the last available appeal has been taken or time has run out, that the minister will look at transcripts or anything of that nature and may we hear further from him?

**Hon. Mr. Bales:** I'd be glad to look at it—particularly the latter decision that is just recently given—and discuss it with you and discuss it with the chairman after that period of appeal is over.

**Mrs. Campbell:** Thank you.

**Madam Chairman:** Thanks, Mrs. Campbell.

**Mr. Lawlor:** Madam Chairman, in order to wind up these estimates I am going to endeavour, against the grain, to speak more in sorrow than in anger, with respect to the new philosophy of this particular board.

As to the remarks made earlier by the hon. minister with respect to the decision having to do with St. James Town, I don't know who on earth is going to appeal it. Not the people who appeared on the record as the St. James Tenants' Community Action Project—the other one was CORRA. The costs of the previous hearing exhausted any funds they had and left them at a deficit. They were given figures of \$35,000 to take the appeal; \$5,000 simply to get the transcripts of evidence. They simply can't do it.

But I am not going to press these estimates for, I will confess, a very personal reason. I'm responsible for a new set of estimates starting on Thursday and I just don't want two of them going on at the same time. Enough is enough, so I kind of throw in the sponge. But I do so with some resentment and some feeling of despair as to how the operations of the committee go on. Taking into account just how constricted the minister is—he's got his duties to perform too, but surely these are primary.

To wind this up, just let me say a word as to the role of the Ontario Municipal Board. You know, what they have done and what they are going and tendentially what is involved in the thing is that Mr. Palmer, who is a good man, is performing fundamentally administrative chores and is not dealing with the substantive issues in attending upon the board's business. I wish you would put a word in his ear that we would expect him to do that and perpetuate the memory of Kennedy and the sense of participation, the sense of openness to the community, and the sense of fair play, which that man brought about.

It was a delight to go before him. You knew you were going to get a good hearing. I think that is no longer so. It is the pervasive feeling throughout the community, among ratepayers' groups and others, that this no longer obtains. That a constrictive, legalistic mentality has taken over on the board. That they have had the effrontery to reverse the whole onus of proof, placing it wholly upon the objectors. In terms of procedure they take the objections first instead of those who are making the application to make a presentation of their case.

The whole tenor and orientation of the board has gone awry. The narrower elements, the ones who favour the developers and developmental projects, seem to have penetrated the board. All these things are backward steps.

Many people, particularly the developers' lawyers, are dancing. They are delighted at the change of face and change of events. I would hope that you, as the minister in charge of this, would keep an abiding eye on these disorientations that are taking place and that you, utilizing the recommendations and summaries here—particularly, I would think, recommendation 4, "that the government, through regulations or official policy statements, should clearly state the policies it expects the OMB to follow." It goes on in that vein.

I am sure the minister had intended to go over these recommendations *seriatim* and to dwell upon them in the time we have at our disposal; I forego that this year with deep regret. It is not the way to handle estimates. However, I am left with very little alternative.

In future years I shall simply say that as far as I am concerned, in an estimate of the magnitude and importance of the Municipal Board, time limitations and the predispositions of ministers will not act as an obstacle to the most thorough kind of evaluation and penetration, particularly if the Ontario Municipal Board continues to carry on as it is presently doing. There will be a major debate next year. That is all I wish to say.

Mr. Cassidy: Madam Chairman, I would like to interject with a very short word or two to the minister.

It seems to me that although it is hard to accept completely the pluralist theory of society, all the same it is the role of government to try to hold the ring as it were between various groups and individuals within society in order to try to equalize the kind of power relationships that exist within society.

One of those power relationships, which is very evident in Toronto, Hamilton, Ottawa, Thunder Bay and other cities like that, is the pervasive influence of the developers and of the property industry. In many cities, they have a stranglehold on municipal councils; and the effects in terms of planning and development of the cities have been bad and in some cases disastrous.

They have led to a kind of one-dimensional growth ethic. They have led to provision of only one type of accommodation, basically highrise accommodation for small family units and single people. They have contributed greatly to the housing problems of families, which this government has failed in any way to resolve.

The Municipal Board has been one of the agencies of government that has tended very strongly to equalize the power relationships between ordinary citizens and ratepayers and these large, powerful, well-financed, well-advised property interests or developers who have been able to twist councils around their fingers, who for \$500 or \$1,000 a day have been able to summon up expert planners and other advisers who would dance to their tunes.

The Municipal Board has taken all this with a grain of salt. It has looked at the situation in our cities with a great deal of com-



mon sense, with a great deal of sensitivity, with a great deal of compassion, and it has tended to reinforce what feeble power was otherwise available to ordinary citizens and residents of our city.

That was the situation up until Oct. 31 of last year. Now, it seems to us, that has ended, and the Municipal Board is aligning itself more and more definitely on the side of the property interests, whose power is already too great and ought to be checked.

I would appeal to the minister, as the minister responsible for the Municipal Board, that it is his duty as a member of this government to try to redress that imbalance of power, to try to ensure that individuals in Ontario society have some strengthening of their power over against these mammoth developers and property interests, whose influence in the cities has been bad—and all evidence is that it will continue to be bad unless something is done.

**Madam Chairman:** Thank you, Mr. Cassidy.

**Mr. Deacon:** Could I just add that I hope that this minister also will do something to have his government introduce policies that would remove the present pressures of development that have arisen as a result of the failure of his government to provide serviced land and other amenities for people who want a place to live? These are the causes of the problems that the Municipal Board is facing. These are the causes of the pressures and the conflict between citizens and the municipalities, and I would hope that this government would see its role, which it has failed to take for many years.

**Madam Chairman:** Thank you, Mr. Deacon.

**Mr. Cassidy:** One brief matter is that the minister did not seem aware of Mr. Kennedy's philosophy. He stated in an article in the Toronto Star just after he retired:

Civilization is not a jungle. The object of democracy is justice, and if it is, then it must have a built-in mechanism to protect

the rights of individuals and minorities. That is the function of the Ontario Municipal Board.

**Madam Chairman:** Thank you, Mr. Cassidy.

**Mr. Cassidy:** I am very surprised the minister is not aware of that.

**Madam Chairman:** Shall item 5 carry? Does vote 1207 carry?

Vote 1207 agreed to.

**Hon. Mr. Bales:** I have equal admiration for Mr. Palmer or any person assuming that very heavy responsibility. He is in many ways doing a reorganization within the board as it is needed from an administrative standpoint. I think, give Mr. Palmer a little time and he will prove to be a very fine chairman. He is a man of great ability, great integrity and I think all of us and people generally will benefit from his administration of that board.

**Mr. Cassidy:** Doesn't he—

**Hon. Mr. Bales:** I wouldn't want to leave a man who has been so short a time on that board under any cloud in reference to this committee or my views as to his ability or to his integrity.

**Mrs. Campbell:** Madam Chairman, my remarks certainly weren't directed to Mr. Palmer. They were directed to other areas however.

**Hon. Mr. Bales:** No; in yours, not at all.

**An hon. member:** It's time to adjourn, Madam Chairman.

**Madam Chairman:** Thank you very much.

**Hon. Mr. Bales:** Thank you very much for your assistance and co-operation.

**Madam Chairman:** This completes the estimates of the Ministry of the Attorney General.

The committee adjourned at 11:40 o'clock, p.m.

## CONTENTS

Tuesday, May 8, 1973

Administrative tribunals programme, concluded .....	S-221
Adjournment .....	S-260









# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

**Thursday, May 10, 1973**

**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**  
**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER**  
**PARLIAMENT BUILDINGS, TORONTO**  
**1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 10, 1973

The committee met at 3:20 o'clock, p.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

**Mr. Chairman:** We are here to start the 1973-1974 estimates of the Ministry of Consumer and Commercial Relations. Would the minister like to make some introductory remarks?

**Hon. J. T. Clement** (Minister of Consumer and Commercial Relations): Yes, Mr. Chairman, I have a few brief remarks I would like to address to the committee and those members of the public present. First, I am pleased to have the opportunity to be here. I must confess that I was not on any committees dealing with estimates last year, except for being a substitute on one or two very brief occasions, so I have not had the opportunity of watching an estimates committee operate.

I was appointed minister on Sept. 28 last year, and needless to say I have been awed by the activity of the ministry during the past seven months. As well as the calibre and competency of the entire staff of the ministry, and the first-class job that they have been doing, I am constantly amazed at the requests from the general public, almost weekly, as to the amplification and expansion of programmes.

Last year has been a rather substantial year—and I go back 12 months when I use the word “year”—in terms of significant legislation, such as the proposed new Securities Act, major amendments to the Consumer Protection Act, regulations affecting the qualifications of real estate agents and brokers, the Pyramid Distribution and Sales Act, amendments to the Business Corporations Act, amendments to the Land Titles and Registry Acts, the Consumer Reporting Act and the Co-operative Corporations Act.

These bills have been a result of a great deal of study to some degree with regard to reports of select committees and of the Law Reform Commission; and some of the major

bills, such as the Co-operative Corporations Act, will be reintroduced in the House shortly. You will recall that I introduced it last fall with the declared intention of letting it die on the order paper in order that the public and those affected would have an opportunity to examine it over the winter months.

At the present time we have a large number of research projects and studies going on within the ministry, some of which I will mention to indicate the wide scope of what we are trying to accomplish:

1. A data-based study is under way as a joint effort of the companies division in the Ministry of Revenue to help develop a common data base for the use of the companies division in the corporation tax branch of the Ministry of Revenue in order to eliminate duplication of stored data.

2. A name search study from the point of view of searching the look-alike, sound-alike corporate names has been completed and tests are presently being conducted.

3. A study of the role of intermediaries, such as agents, brokers and adjusters, in insurance has been set up under the chairmanship of Mr. Douglas Carruthers, QC. Mr. Carruthers will review the existing laws and licensing requirements with a specific regard to the public interest.

4. A study completed by the minister's committee of insurance claims is presently being reviewed by the ministry, as well as the multitude of submissions that have been received as a result of the release of the recommendations of the committee.

5. The green paper on warranties and guarantees is in its final preparation process in response to the Ontario Law Reform Commission report.

6. A securities industry ownership study is also under review by the ministry's officials.

7. We have completed our study of the area of uniform building standards and we are presently meeting with the municipal representatives to enable us to complete the final drafting of this legislation. I might mention that public response has been quite substantial to this, the first green paper issued by the government. I think the response is an

indication that this procedure would be a very good one to follow in connection with other matters.

8. We have a project under way to research and investigate the application of a new type of consumer legislation as a broad and flexible approach to consumer problems and as an alternative to our current registration procedures.

Since my introduction in the ministry I have spent a great deal of time in speaking to and communicating with business and consumers within the whole area of consumer protection. In these speeches, which have been substantial in number, I have attempted to be frank, to answer questions that should be answered, as well as to point out alternatives, if we have them.

Quite frankly, to date the response has been fairly good. Indeed, I would hope that my ministry can establish a rather substantial reputation for its ability to consult with business and consumers prior to legislation being introduced, and with regard to alternative methods of eliminating unfair or deceptive practices.

It seems to me that the task of balancing the needs and rights of the consumer and the businessman is a difficult one, and can be carried out only where there is a complete understanding of the problem on both sides. When I talk of consumers, of course, I talk not only of those served by our business practices division and our consumer protection bureau, but also about almost every facet of the ministry, from securities to liquor and so on. Indeed, it is interesting to note that almost all aspects of the ministry have major contact with the public and are extremely active to see that all rights are protected.

As we proceed through these estimates I hope that you might allow us to have some degree of flexibility in the way in which they are heard, since several of the branches under my ministry, such as the Ontario Securities Commission and the Ontario Racing Commission, are in the middle of substantial hearings. It may be, for instance, that the Ontario Securities Commission officials will be available to us only in the evenings; and the Racing Commission officials will not be available to us until after next Tuesday, when their hearings conclude.

It is my intention to have the members of the ministry available as we proceed through these estimates; indeed, as we proceed from item to item I will introduce to you the

executive direction as well as the various registrars who will be here to assist us.

At this particular time I would like to introduce a few people who are here today with me in order that you may identify them by face and responsibility; and when we deal with the estimates touching upon their areas of activity, I will reintroduce them to you to refresh your memory.

On my immediate left is my deputy, Mr. J. Kenneth Young; the director of legal services, Mr. Ed Ciemiega, is down at the back to your left. The director of personnel, Mr. Phillip Williams, is next to Mr. Ciemiega. The director of financial management, Mr. Ted Johnston, is over here to my immediate left. Then there is Mr. Gordon Grundy, the superintendent of insurance and registrar of loan and trust corporations.

Mr. Barry Tocher, the programme analysis co-ordinator, is next to Mr. Johnston. Next to Mr. Tucker is Norm Vetere, director of administrative services. Mrs. Dagmar Staff, an economist with my ministry, and Mr. John MacPherson, internal auditor, are at the back of the room. Mr. Wells Bentley, director of the Pension Commission, is with us today, as well as Pat Neale of the Pension Commission.

Thank you, Mr. Chairman.

**Mr. P. G. Givens (York-Forest Hill):** There is nothing left for you to do, with all those smart people here.

**Mrs. M. Campbell (St. George):** He is the mouthpiece.

**Mr. V. M. Singer (Downsview):** That is why we are reducing your estimates to \$1.

**Hon. Mr. Clement:** Are you going to do that? It would save a lot of time.

**Mr. D. M. Deacon (York Centre):** Mr. Chairman, speaking on behalf of the official opposition, I would like to start off by congratulating the minister on his appointment. I think they have appointed a minister who apparently has been frank in most of his statements. Whether we agree with him or not, we certainly know what his points of view are so far.

I am also pleased to see that he has made an attempt to begin to consult a little more with the public in developing legislation. I would add, though, that I think he is still a long way from understanding the proper way of developing knowledge on the part of the public about the problems involved, and involving them in developing possible solutions.



As the minister knows, I have endeavoured to obtain his co-operation and I've had the co-operation of other members—in setting up workshop sessions, in particular the one in connection with the Law Reform Commission recommendations on warranties and the sale of goods. I have already had the co-operation of other members, but unfortunately not the co-operation of the minister, in holding a workshop on the Securities Act.

**Mr. Singer:** Excuse me. I think the bells are ringing. Is that not the division bell?

**Mrs. Campbell:** They probably only have three Tories to pass the bill.

**Mr. E. M. Havrot (Timiskaming):** Shame.

**Mr. Chairman:** Can we check that to see if it is a division bell?

**Mrs. Campbell:** That is the average count.

**Mr. J. P. MacBeth (York West):** Enough to keep you in line, Margaret.

**An hon. member:** They haven't got a quorum; they are all down here.

**Mrs. Campbell:** No, I bet you have more Tories here than you have in the House.

The committee recessed at 3:30 o'clock, p.m., for a vote in the House and reconvened at 3:55.

**Mr. Deacon:** Mr. Chairman, if we can proceed.

**Mr. Chairman:** Please.

**Mr. Deacon:** I want to cover with the minister and members of the committee some of the basic reasons I disagree with just following the green paper approach.

First of all, the concentration of discussion is between the ministry and individuals. It is funnelling into one spot but it isn't giving all the people involved in the problem an opportunity to share an understanding of the total problem.

For example, in addition to the minister and his advisers, I feel there should be an opportunity early in the whole process of dealing with the problem for elected representatives, his ministry's representatives, the industry representatives, retail representatives if they are involved, legal people and the public to be sitting down together, not in surroundings where in effect they are before God—as you almost feel when you are coming before the minister; people are afraid to say much because they are afraid they are going to be

offending the minister—but where they are all sitting down and trying to get at what the problem is, and a clear understanding of the facts. This is particularly true, for example, in the Ontario Securities Commission, where the commission is a very powerful organization and has virtually the power of life and death over people in the industry. The same is true in the automotive field where car dealers can be put out of business, or in the real estate business where real estate brokers can be put out of business if they offend somebody in the ministry or if they feel that's the case.

For that reason, whether we have the fairest attitude on the part of the ministry, I think it is important that the minister change his procedures. I recognize that in the end he has the responsibility, with his ministry, to work out the policies they are going to introduce; that's the responsibility of government. But I have been disappointed that so far the ministry has not taken advantage of the willingness, and not only the willingness but the eagerness, of the public to participate at a very early stage in dealing with the problems that he is now studying.

I think that he is taking too much upon himself in feeling that he and his group can come up with all the answers. I think he will find that by providing a forum where the pros and cons can be worked out in one location at a similar time, we are going to see a balance in views; we are going to see a greater understanding by all parties of what the total problem is, so there is going to be much more support for any solution he arrives at.

I mentioned earlier the Securities Act. He did introduce a new Securities Act earlier, in the last session, last fall. We had a meeting here in the Parliament Buildings with some of the MPPs and several representatives of people in the industry—not only people in the industry but the public and the investors as well, and we had legal people there.

I well recall that the minister was concerned at the time that that would prove to be a witch-hunt, with people going after the Securities Commission. But it wasn't any witch-hunt. There were responsible people there who were concerned that the quality of legislation be such as to achieve the true objectives of the commission, which are to ensure the public has full and proper disclosure of what's going on, and that there are no practices going on that can trap the public.

On the whole, most people in an industry

want to earn the confidence of the public. I think that's becoming increasingly apparent. I think in the old days the stock exchange used to feel it had a right to do whatever it wanted to do and let the buyer beware, and I think that was true in a lot of other industries. But I think there is now a greater understanding that they will destroy themselves and their whole industry if they don't act in such a manner that the public has fair treatment all the way through.

I think we can appeal to that type of person and get his knowledge in a better way than by asking him to submit a brief and then not let him know why the government may react quite differently to that which he is recommending.

It is these workshop sessions that I think the government ought to involve itself in to a great degree, rather than this present method of having the ministry develop answers, request briefs and then have these secret sessions where there aren't open opportunities for discussion.

I recognize that we don't want to have disorganized sessions where nothing constructive comes out, but I am sure that isn't necessary, particularly now that we have such fine organizations as the Consumers' Association of Canada, which is developing quite a substantial body of knowledge itself about these problems in some detail. It hasn't got a full understanding, but not any one segment has a full understanding of the problems.

I think you can get very responsible constructive discussion, and through that, a greater understanding of whatever solution the ministry arrives at to recommend in the legislation.

Last year your minister's predecessor didn't involve people in the amendments to the insurance bill, and it was a very sorry debate that occurred because neither he nor many of us in the Legislature understood what the legislation was trying to do. We couldn't accept his word that the legislation was supposed to be correcting certain difficulties. His explanations were very deficient. We didn't accept them. We found there were many loopholes, and all in all it was a very unfortunate debate.

I am sure that we could have arrived at a good piece of legislation had there been much broader involvement and much more thorough analysis with members of the Legislature of all parties as well as people in the industry discussing the problem and how it should be solved.

There is another piece of legislation that

was approved last year. It was in connection with the Pyramid Distribution and Sales Act, and certainly a most admirable piece of legislation as far as its objective is concerned. But now we are seeing where the Act is open to tremendous abuse because of the loopholes that are now quite apparent. I just would like to read from the comments of one person, who points out:

The object of the Act is obviously most commendable and there would appear to be a degree of need for consumer protection in the area. However, it is my opinion that the legislation has been poorly drafted.

The definition of pyramidal scheme under the Act is so broad that many businesses and marketing plans will be included within the Act, although it would seem clear that it was not the intention of the Legislature to bring such activities within the purview of the legislation. In effect, the Legislature has delegated to civil servants the duty of deciding which businesses and activities should be subject to the provisions of the Act based upon that civil servant's notion of what the Legislature intended.

It may be suggested, although it is not explicit in the Act, that the Legislature intended to regulate the type of scheme in which a person would be induced into spending a large sum of money and acquiring inventory, which he may never be able to resell and in which there is personal profit by the mere recruitment of other investors in the scheme. The problem lies in the fact that the legislation does not direct itself sufficiently to the mischief which is intended to be remedied, but includes many types of businesses and leaves the task of sorting out the intention of the legislation to the civil servants.

A law firm, for example, may very well fall within the definition of a pyramid scheme [I am sure the minister would not particularly want this to be the interpretation] although I would hope that it is not intended by the Legislature that law firms would have to file prospectuses and be subject to the provisions of the Act. In a law firm, as you know, a junior may become a partner by contributing a capital amount to the partnership. That partner then receives a greater consideration if the firm hires juniors who sell their services to the public and increase the billing of the firm.

Miss McEan, who is the counsel working with the registrar of pyramid schemes,



admitted to me that such a law firm would technically be caught by the definition of a pyramid scheme, although she did not think that the law firm was the type of business intended to be caught by the legislation.

**Mr. Chairman:** Are you adopting this argument, Mr. Deacon?

**Mr. Deacon:** I am saying that that's the type of interpretation that would be possible under the legislation that is now drafted.

Of course, the above example is somewhat obvious, and although it is within the powers of the registrar of pyramid schemes to demand compliance by such a law firm with the provisions of the Act, one would hope that the registrar would see fit not to do so.

There are, however, many other businesses which are more doubtful and it is these instances in particular which the Legislature has left the registrar of pyramid schemes to regulate.

For example, an automobile dealership gives valuable consideration to an automobile manufacturer in entering into an agreement with the manufacturer to distribute its products in exchange for which it receives a right to acquire automobiles for sale, lease or otherwise. The owners of the automobile dealership and the sales managers in the dealership receive consideration as a result of the performance of additional participants, namely, the salesmen. Therefore, it can be said that the ordinary automobile manufacturer-distributor arrangement is a pyramid scheme within the provisions of the Act and surely that's not intended.

It's this type of situation, Mr. Chairman, that I want to bring to the attention of the minister. It is possible that that couldn't be corrected in drafting, but it is also quite possible that if the type of process were followed that I suggested, these situations could come to light and there could be legislation drafted in such a way that the clear intention of the Legislature was set out in the bill and there would be no possible misinterpretation in situations such as I've outlined.

I would also like to mention this matter of the Securities Act again. I think that many people in the Legislature and the public as a whole are of the view that they just aren't sufficiently skilled and knowledgeable to make a judgement on securities matters.

I feel that these situations are, indeed, not all that complicated. In each specialty of

work, whether it be in the securities industry or law or in academic circles, we tend to develop a vocabulary that sounds fearsome to the public as a whole. It's difficult for them to understand something which happens quite naturally.

Actually, if these problems in securities are brought down to ordinary common terms, they are not all that complicated. It's important that we develop a forum whereby more members of the Legislature, more people, ordinary members of the public can come to an understanding of some of the basic objectives that we are trying to achieve in legislation.

I think it is important that this result in a change in the present organization of the Securities Commission so that the minister doesn't leave as much as he now leaves in the hands and the authority of the Securities Commission and its chairman. There is a far greater degree of responsibility and authority left with the chairman of the Securities Commission than with almost any other body that comes directly under the ministry. I think it is probably because the minister and other ministers have felt it's a specialized field that they cannot hope to understand.

I don't think we should approach such an important industry with this view. I think we have got to do everything possible to enable the public to understand what we are trying to achieve, so that the minister can be fully responsible for the actions which are taken and the public can understand why the action was taken in any particular problem that arises.

In summary of this opening part of the estimates, I did want to go over again that it's the way we develop legislation which, I feel, is even more important than the legislation itself. That is the way we will get public understanding and support and that is the only way that legislation can be really effective and can be most effective.

I'd like to add that I like the minister's general thrust. He is heading toward the principles of self-regulation as much as possible with, I would hope, greater public involvement in whatever bodies are set up by industries to regulate themselves. The public then can have representatives sitting there to ensure that too many cosy situations can't develop.

I would hope that the minister would recognize that the public does have an ability to understand problems—the total problem—and to contribute to solutions even though



they may be of humble beginnings, background and training. They have a great deal of common sense to add. I've been most impressed so far by what I've listened to from members of the Consumers' Association of Canada and from people in the retail industry who aren't normally considered to be experts. They have a lot of common sense.

I would hope that the minister would develop a better way for them to feel they have a real role to play not as supplicants coming to the minister but as definite partners in developing good legislation.

I am shaken as I go over these estimates by the huge increase in the minister's own office; it is getting to be nearly four times as much as in the previous year. Maybe he will be able to tell us something about that.

I am also particularly shaken by the fact that we still don't have a report for last year. I can't understand how this ministry, of all ministries, which insists on companies providing annual reports within four months of the yearend—I think the yearend in the ministry was Dec. 31; maybe it's changed suddenly—but the last report we have is for 1971. I don't think it's the type of example this minister should set. I would hope that that would be corrected in the future.

I did have some things to say to do with the public regulating bodies within the ministry. I was rather shaken in connection with the Liquor Control Board, when for some reason or other the minister's executive assistant felt authorized to comment on the brief of Alcohol and Drug Concerns. Was he authorized by you to do that?

**Hon. Mr. Clement:** Yes.

**Mr. Deacon:** It seems to me that with a brief as important as that, you should be the one who should have made the statement; or he should have been speaking on your behalf; or it was your statement—

**Hon. Mr. Clement:** I am trying to recollect the exact situation. As I recall it, it was in my absence but he had my authorization to do that. He was in attendance at the meeting, of course.

**Mr. Deacon:** But it really did look very strange in the papers to see that the spokesman for you wasn't termed as a spokesman; he wasn't described as being the spokesman. It was a straight matter of him saying what the department would do.

Interjection by an hon. member.

**Mr. Deacon:** Yes, that's right. "Mr. Cooper said yesterday the department would not consider issuing such cards automatically, as proposed by Alcohol and Drug Concerns."

The whole thing was what Mr. Cooper said as if he were the minister. Maybe it was that the reporting was deficient in this case but it didn't come through in the right way.

You certainly have fine people as chairmen of both the Liquor Licence Board and the Liquor Control Board. I am concerned that so much of this is dependent upon having extraordinarily good people. The type of operation is such that there is not open disclosure of what is going on—minutes and things like that. I think that one of the points brought up in the brief of Alcohol and Drug Concerns was the difficulty of getting information about the reasons and details of the hearings in relation to the Liquor Licence Board particularly.

I think I did mention earlier the matter of self-regulating bodies and the fact that I would hope the ministry would tend to give much more authority to industry to regulate itself with greater public representation on those bodies.

I know that automobile dealers, used car dealers and real estate people feel very strongly about that. I think there is a point—if I can find a letter I have here from a real estate person. It really is interesting to me how that industry has tried to improve its standards—its educational standards and training standards—but has had very little help from the ministry itself.

I can't find that letter right now but I'll bring it up later on when we come to that aspect of the estimates discussion.

I would think the ministry should start to look in terms of how even existing industry regulation—not just the new areas—could be carried out by industry itself. You have experience with used car dealers; you have experience with real estate brokers. Maybe it hasn't all been to the good but I think that they are the ones who are probably in the best position to know what is required and to assume responsibility for their actions, ensuring that the public has proper representation on those bodies at the same time.

**Mr. Chairman:** The clerk will go up to the House and when the vote is ready to be called he will come down and tell us. We can sit until then.

**Mr. Deacon:** Those are some of my general remarks, Mr. Chairman, and I look for-

ward to participating in more detailed discussion later on.

**Hon. Mr. Clement:** Mr. Chairman, would it be the committee's wish that I reply to some of the comments made by Mr. Deacon or did you want to wait until other members have made contributions and I can reply once? It is whatever you and the committee prefer.

**Mr. E. W. Martel** (Sudbury East): You should hear the critic for the NDP before you respond.

**Hon. Mr. Clement:** Well, yes.

**Mr. Martel:** I would suggest that it go into open discussion.

**Mr. Havrot:** I thought you would be agreeable to this.

**Mr. Chairman:** Did you wish to comment now, Mr. Renwick, or would your contribution be limited if the minister responded to Mr. Deacon?

**Mr. J. A. Renwick** (Riverdale): I don't think it could be limited because I don't intend to cover any of the items which Mr. Deacon dealt with.

**Mr. Chairman:** Then possibly, while its fresh in our minds, the minister could respond to Mr. Deacon.

**Mr. Martel:** See how agreeable we are.

**Mr. J. M. Turner** (Peterborough): That wasn't your idea.

**Hon. Mr. Clements:** Mr. Chairman, members of the committee, I have just one or two comments.

Number one is with reference to Mr. Deacon's comments concerning the green paper dealing with warranties and guarantees and the recommendation of the Ontario Law Reform Commission pertaining to that particular subject. So that all of you may understand, Mr. Deacon offered to hold a seminar workshop in the best interests of consumers and all parties. I believe it was to be Feb. 3 and 4 or Feb. 4 and 5 last. He spoke to me in late October or early in November. I concurred with the intention of such a workshop.

I think the only thing that Mr. Deacon and I did not concur in was the matter of timing. At that particular time, I had been in the portfolio, or had the responsibility for it, for some four or five weeks. Quite frankly, and I'll be the first to admit it, I

was just starting to learn who worked where and what name was attached to what responsibility.

I had the feeling that it would not be in the best interests of anyone for the ministry to participate in an official capacity. This in no way would preclude anyone from holding such a workshop and inviting people to attend.

With the question of the green paper, one thing that concerns me very much is that we don't have any polarization between the consumers and the industries involved. If we get either side extremely apprehensive of the other, I wonder if it is going to interfere—and I'm concerned that it is going to interfere—with the validity of the dialogue and exchange that might be made between the parties.

Insofar as the civil servants are concerned, any minister who does not admit to receiving substantial advice from his civil servants is either misleading or misled. I certainly rely very much on my professional staff, but the final responsibility must be mine. I'm aware of it and in certain instances I've had to move in a direction opposite to that recommended by my staff. They are there not to determine policy. They are there to determine programmes and make recommendations. I, along with cabinet, of course, have to make the decision whether these programmes are acceptable and practical for the people of the province.

There was a comment made by Mr. Deacon as to a similar type of seminar or discussion meeting with reference to the Ontario Securities Commission. My reasoning was the same at that time. There is a distinction here, I think, between the work of the Securities Commission, which is already in evidence and in existence, with regard to supervising programmes, as opposed to such things as warranties and guarantees, where we are still in a very infant stage in determining positions and this sort of thing.

I felt at that time that there would be little or no value in my participating or having senior staff participate in that. I would hope that if they had any complaints in the industry as a whole, then—

**Mr. Deacon:** Don't you think you can learn something from it?

**Hon. Mr. Clement:** Oh, I can learn something. I'm sure, from every dialogue that I undertake or participate in. It is a matter of priorities, too, and I have to be aware of the priorities and my own time and my own



limitations. I'm the first to admit that I don't know everything about everything.

With regard to pyramidal sales, I was interested in Mr. Deacon's comments as they related to law firms. I've got one that I'm trying to sell out an interest in and I can't find a junior, although there are three in the office, who will pay me anything for it. I don't think that speaks well of my practice. I would love to have it registered if Dare To Be Great could market it.

**Mr. Singer:** What have you got to offer?

**Hon. Mr. Clement:** Lots of receivables. They are all good, because we have had them for years.

The hon. member made reference to and suggested that we were not developing new approaches to the public. I am aware of the responsibility to this sort of thing. When we get into the estimates themselves you will see a \$500,000 allocation for this very type of thing, so that we might develop new approaches to the public. We are going to use them for educational and informative matters, to bring programmes to the attention of the people and to bring remedies to the attention of the people. The storefront operation is the sort of thing that we've been considering and perhaps we'll deal a little more fully with that later on in these estimates discussions.

With the Pyramid Distribution and Sales Act, as of the present time, I'm not aware of any inequities that have prevailed. I'm more aware, and I'm sure you are, that there have been no registrations completed, because those who have come forward to effect registration in many instances could not comply with the statute. One firm has progressed fairly substantially in being registered in that there is a difference in interpretation in professional opinion between the registrar and our legal staff and the legal people representing the pyramidal applicant. In any event, it is not registered as of this moment.

In the process of these negotiations we have advised the applicant that we would not even entertain the application, unless a substantial amount of money was deposited with us by way of a bond. That money has been deposited in the form of a letter of credit, I believe, in the sum of \$100,000. What the outcome of that particular application will be, I don't know.

I'll be candid with you, I question whether maybe we shouldn't sometime just bring in an Act and abolish them. I don't know, I'm thinking about it. There are other jurisdic-

tions where they have actually used our pyramidal sales statutes. I'm somewhat astounded to find out this winter that in Singapore they have an Act in force. For whatever value that has, we have no knowledge.

**Mr. Singer:** Did you not get a trip over there?

**Hon. Mr. Clement:** No, but I would like to go over and see if it is working. I know I have talked to people in the last few months, particularly somebody in the United Kingdom and someone in Denmark—or from there—who wondered about Koscot Interplanetary. For those of you who have been to Orlando, Fla., you might be impressed to know, as you enter Orlando, there is a big sign that covers a four-lane highway. It says, "Orlando, Florida, the Home of the Unstoppable Glenn Turner." So while he's been prosecuted in other jurisdictions, Orlando is still proud to claim him as a native son.

**Mr. Singer:** Aren't there some people up here looking for him?

**Hon. Mr. Clement:** I think so.

Self-governing is a concept that should be, I think, supported by the government in its policies and legislation, but only so far as it is responsible self-governing. I don't think we have any difference of opinion on that sort of thing.

What bothers me as a taxpayer, and I've said this before, is that I don't know why the people of this province should have the burden of policing certain segments of industry, and not only policing but picking up the tab on investigations that are conducted. I think of one or two investigations where professional staff of my ministry have been engaged for many, many days investigating, accumulating evidence and going to trial in essence with this evidence. Certain other groups, quasi-professional groups and professional groups, bear the cost of their own investigation and policing and the financial burden is not on the taxpayer.

This is an area in which we are moving toward always, I hope, retaining sufficient control over an industry, that if it doesn't act responsibly and self-police and self-regulate, then there is an avenue available for us to move back in by default and make sure it is not creating an exclusive club to the detriment of others.

As for real estate requirements, effective last July 1, the 90-hour course for the agents has been very well received by the industry.



I talked to a number of major brokers across the province who say the people now entering to sell real estate for the first time with them are far better trained than they have ever been before. This isn't the end of the programme, of course, but it's a beginning and I think it is meeting with general acceptance.

I think those are the only comments I have arising out of Mr. Deacon's observations.

Oh, one last one, Mrs. Campbell and gentlemen of the committee, as to the annual report. Last May or June an interim report of the ministry was filed to cover the period from Jan. 1, 1972, to March 31, 1972. We are on a March 31 yearend. The next report, which we would hope to have ready in about four or five weeks, will cover the period from April 1, 1972 to March 31, 1973.

**Mr. Deacon:** When did you issue the interim report?

**Hon. Mr. Clement:** I didn't issue it, my predecessor did. He filed it in the House, I am told, about May or June, Mr. Deacon.

**Mr. Chairman:** Mr. Renwick.

**Mr. Renwick:** Mr. Chairman, I have seven specific headings that I want to deal with briefly in the opening remarks on behalf of the New Democratic Party caucus.

I am concerned about the de-emphasis in the ministry of consumer protection. The term "consumer" appears in the minister's title, but apart from that, when one examines the votes in the estimate there is no further reference to the word "consumer". I think that when language is used for the purpose of voting money in the Legislature, one must conclude that omission of a specific term in the estimates indicates quite clearly that the government has de-emphasized what little interest it really ever showed in the whole field of consumer protection with respect to the public being protected against shoddy goods. And the protection of the public is, in my view, an essential area.

Even when one looks at the elaborate coloured chart of the ministry, under the business practices division you have the one reference, "consumer protection bureau." I think that disguised as a constitutional problem the minister and his predecessors have abdicated the field of consumer protection to the federal government. I think it is because the federal government had at one time a very aggressive man in the hon. Mr. Basford, and in the Province of Ontario it was fashion-

able to be concerned about consumer protection, so the government moved into the fashionable field and is now quietly moving out of it. There is to my mind no indication in the estimates of the department of any serious concern about consumer protection.

The second matter that I want to deal with is my concern in the government that there be some ground work done in advance on the question of price regulation and price control.

I can't conceive for a moment that anyone looking objectively at the situation in the Province of Ontario with respect to the price increases—with respect to the movement of consumer prices, professional services, fees, commissions, the wholesale commodity index, the basic commodity index—could but come to the conclusion that we are into an area of extreme inflationary pressures. It is necessary for government to have available to it the tools which are required, so that when and if it must exercise its options it has those tools available to do so.

It is now quite clear—and it has been restated in Ottawa and ducked in questions in our own Legislature—that the only way in which a price regulatory framework can be developed is if there is co-operative legislation by the Parliament of Canada and by each of the provincial jurisdictions. That is perfectly clear.

I won't make, other than to comment about it, the rather obvious partisan political statement that the Conservative Party federally is calling for price controls and a freeze. The Conservative government in the Province of Ontario certainly does not agree with that policy of the federal party, otherwise it would be co-operating in enacting the kind of co-operative legislation with is required for it to work.

So I want to put something on the record, simply so that the estimates committee of this department will have the reference clearly before it as to what the constitutional situation with respect to price regulation is in Canada. I refer basically to pages 312 and 313 of the latest edition of Mr. Justice Laskin's book on constitutional law. I am going to quote it so that the record will show it. This is the judgement, if my memory serves me correctly, of the then Chief Justice of Canada, Lyman Duff.

I have indicated the principle which in my opinion is deducible from Parson's case, namely that section 91.2 [which is the head of power for the federal government to legislate in the field of trade and commerce]—

**Mr. Singer:** Excuse me, Mr. Renwick. What's the citation in that case? What year is it?

**Mr. Renwick:** I haven't got the exact citation here. I can get it.

**Mr. Singer:** Was it dealing with a wartime situation or a peacetime situation?

**Mr. Renwick:** No, a peacetime situation. It was dealing with the Board of Commerce—it is the Board of Commerce case.

**Mr. Singer:** Oh, that was in the Thirties.

**Mr. Renwick:** Yes.

So that the quotation in the record will be clear:

I have indicated the principle which in my opinion is deducible from Parson's case, namely that section 91.2 does not authorize an enactment by the Dominion Parliament, regulating in each of the provinces the terms of the contracts of a particular business or trade, for the reason put very broadly that such legislation involves an interposition in the transactions of individuals in the provinces within the sphere of property and civil rights and local undertakings not contemplated by section 91.2, the trade and commerce power of the federal government. Legislation, for example, imposing upon the trade in readymade clothing throughout Canada the prohibitions put into force by the order out of which this reference arises would, if my view of the effect of Parson's case be the right view, pass beyond the scope of the authority given in section 91.2; an enactment, that is to say, by the Dominion Parliament in the precise words of the order now in question could not be supported under that head.

I cannot discover any principle consistent with these conclusions upon which an enactment delegating to a commission the authority to regulate the terms of particular contracts of individual traders in a specified commodity according to the views of the board as to what may be fair between the individual trader and the public in each transaction can be sustained as an exercise of that power. And if such legislation could not be supported when the subject dealt with is a single commodity, or the trade in a single commodity, or a single group of commodities, how can jurisdiction be acquired so as to legislate by extending the scope of the legisla-

tion and bringing a large number of specified trades or commodities within its sweep?

It may be conceded that while section 18 of the Act under consideration could in its very terms be validly enacted by a provincial legislature, the authority reposed in a commission created by such a legislature would not, of course, extend beyond the ambit of authority committed to the legislature itself, and consequently such a commission would not acquire power to deal with matters belonging to the subjects of foreign trade, interprovincial trade, and the regulating of the management of Dominion undertakings and beyond the legitimate scope of the legislative activities of the province.

But it does not follow, because the Dominion could alone deal with these last-mentioned matters, it is itself authorized to enter upon fields exclusively reserved for the provinces in order to carry out a legislative design necessarily incomplete, without legislation on matters so exclusively reserved. [I emphasize this next statement:] Co-operation between the Dominion and the provinces may be necessary to obtain the ends desired by the legislator, and such co-operation is, of course, not unknown.

**Mr. Singer:** That's the Bennett legislation isn't it?

**Mr. Renwick:** The Board of Commerce case was, yes.

**Mr. Singer:** There was a whole flock of R. B. Bennett's legislation just before he was defeated.

**Mr. Renwick:** That's right, prior to the articles. The Herridge new deal.

**Mr. Singer:** Yes.

**Mr. Chairman:** I wonder if that's why he was defeated.

**Mr. Renwick:** Now, my concern is not to advocate one way or another the difficult policy question of whether or not it is necessary to have price regulation, either as a complete freeze for a limited period or on a selective price control basis; but the fact of the matter is there is a very difficult enabling legislative problem requiring the utmost co-operation between the federal government and each of the provincial governments in order to draft the legislation that will provide the framework within which that kind of control can be exercised if, in the interests of the people of the country, that should ever become necessary.



I think that any government which ignores the need at least to be prepared on a co-operative basis to meet with the other provinces and with the federal government for the purpose of drafting that kind of legislation is, in my view, abdicating its public responsibility.

The third item that I would like to deal with, Mr. Chairman, is again related to the field of the law of landlord and tenant in the sense of consumer protection. I want to comment simply on three aspects of it.

One, I think, there has to be a standard lease form. There's no reason why a standard lease form cannot be devised for residential properties with specific permission for additions to be made in such a standard lease form clearly marked by a different colour of ink—or whatever identifying arrangements are necessary—so that a person who is entering into a lease can see the special provisions that a particular landlord has entered into in addition to those which are general application. It is not beyond the wit of the draftsmen in the minister's department in the field of consumer work to come up with some such standard form of lease.

The second aspect which concerns me is one which was dealt with briefly in private bills yesterday because of the inadequacy of the law of landlord and tenant. Disguised as legislation relating to housing standards, the city of Toronto has now authority—assuming the bill is finally passed by the Legislature—to fix rents during a period when any work order is outstanding, and to prohibit a landlord from increasing rents during that period of time.

I think we are going to get into extreme difficulty if we start mixing up housing standards legislation of municipalities and landlord and tenant law of general applications throughout the province. I am suggesting that it is absolutely essential that a provision be inserted in the law of landlord and tenant to the effect that if a landlord is letting, or leasing, residential accommodation which falls below the standards required by the local municipality as a minimum, he cannot, in order to fulfil his obligation of bringing the accommodation up to those levels, pass on the cost of that as increased rent to the tenants.

Specifically, I have in my riding an area of accommodation with some 260 flats, or apartments, in it. It's quite an old development. It's now in private hands. The property has deteriorated substantially in the last 10 to 15 years because of the neglect of the present owner who lives out of the country.

The result has been that the tenants had the temerity to ask that an inspection be made by the housing standards division of the city of Toronto. That was made and quite a comprehensive demand was made on the landlord, most of it of a relatively minor nature, but significant in terms of the enjoyment of the accommodation by the tenants. The tenants were immediately circulated, by the general manager, to say that those costs would be passed on in the form of increased rents just as soon as the leasing arrangements in any particular accommodation made it available for a rent increase to be imposed.

Again, I'm not suggesting that these are simple problems. There are difficulties as to how you adjust these particular interests, but it comes to my third point in the law of landlord and tenant.

The advisory bureaux are, for practical purposes, useless. We should go back to what the Law Reform Commission originally recommended and, for reasons which I have never been able to understand, was not adopted—to have a rent review board. Not a rent fixing board—unless, of course, at some point that becomes necessary—rather a rent review board where, in situations such as the circumstances that I have outlined as existing in my own riding, a rent increase is to be imposed—or is being considered by the landlord—there should be a public forum at which the tenants can put their arguments and the landlord can put his argument and let the light of public opinion and public pressure determine whether or not there are legitimate grounds for rent increases.

There are obviously areas where rent increases are necessary and required. There are also other areas where, because of the neglect of the landlord who has reaped the income from the rents over a period of time without carrying out the basic maintenance work required to maintain the accommodation, it has worked adversely to the tenant.

**Mr. Singer:** Could I just interrupt on a point of order? I just wonder, I don't see in the minister's list of statutes that the Landlord and Tenant Act is one of his areas of responsibility.

**Mr. Renwick:** It's the Attorney General's (Mr. Bales).

**Mr. Chairman:** I take it you are directing it with reference to the consumer end of it.

**Mr. Renwick:** I am—and I'm suggesting that there have been a significant number of transfers of legislative responsibility. It seems to



me that in any intelligent grouping of statutes, in terms of consumer protection, the field of tenancy law is an important part of consumer protection.

The fourth matter that I want to deal with refers indirectly to my concern about increased prices in our economy. But the thrust of my remarks in this field is simply that, again from the point of view of the consumer, we have got to establish the procedure of a public forum where rate increases, or commission increases, or fee increases, are going to be imposed, or where fee schedules are going to be established, in order that public opinion can have available to it the arguments in favour of and against any proposed increases.

I am aware that the Securities Commission is engaged in the commission hearings, as I understand it, on the rates on the Toronto Stock Exchange—that's one example of it, and I'm not going to deal in depth with it. I am correct that they're now holding those hearings that were postponed, is that right?

**Hon. Mr. Clement:** I think it is May 22.

**Mr. Renwick:** It's May 22, is it? Well, maybe I'll be able to, in this three-ring circus, find time to go down there to attend the hearings.

I am concerned, for example—and I don't think that it is out of order for me to comment about it—I am concerned that, on the one hand, the budget of the Province of Ontario removes the security transfer tax because of an indication, real or imagined, that business was being drained to the Montreal Stock Exchange from the Toronto Stock Exchange.

On the other hand, we have a continuing increase in the dollar volume of transactions on the Toronto Stock Exchange. We have a continuing increase in the commission rates presently charged on the income received by brokers for transactions on the exchange. But we do not have any assurance, unless there are public hearings, as there are going to be in this case, that any increase, if granted, on a uniform basis across the country — and there are compelling arguments for uniform exchange rates in the three major exchanges across the country—that there will be a commensurate increase in the services provided in return for the increased commission which is being charged.

**Mr. Chairman:** Mr. Renwick, could I interrupt you here? The vote will take place any moment now.

The committee recessed at 4:50 o'clock,

p.m. for a vote in the House and reconvened at 5:05 p.m.

**Mr. Renwick:** Mr. Chairman, if I may just pick up where I was at the time when we went for the vote on that very important amendment to the Retail Sales Tax Act.

I was speaking about this whole question of escalation of professional fees, commissions, insurance rates; this same pattern of inflation. My point is, very simply, that all of these should be matters of public hearing, with a public opportunity to listen to the reasons and the arguments which are put forward, and to make certain that there is always retained that basic ingredient of justification for the fee or the commission or the rate charged, equivalent to the service rendered with due regard to the economics involved.

If I may speak about the legal profession, I think that the method by which the so-called county tariffs are prepared and disseminated in this day and age is simply not good enough. We've had the continuing debate with respect to fees for medical services. There is the whole question of whether or not the real estate agents are going to be asking for increases in their commissions, again, related to the question of the service rendered and the economics of the business activity carried on by them.

All of these matters are ones in which we should not shy away from, or be afraid of, public exposure. I think it can only be for the common good to have such public hearings and to provide to the public the kind of education of the factors which are to be considered when these rates, commissions and fees are established. The time has long since passed when we can deal unilaterally in these fields on a professional basis.

My fifth point, Mr. Chairman, is a criticism of the ministry because of what, to me, are relatively unconscionable delays in introducing legislation. We are sitting in 1973 and we still have not got before us in the Legislature the Credit Unions Act, any legislation with respect to franchises, nor any legislation with respect to information about intercorporate relationships. We do have the Securities Act and the co-operatives bill—I think the co-operatives bill has now been introduced this session. No, not as yet. It was introduced last December. I use those only as examples of what is, if I may legitimately criticize the ministry, an interminable delay in the methods by which the legislation is finally drafted and introduced to the House.

Certainly the studies have been done in all

of those fields. I tend to agree on the principle of the exposure bill being circulated but when one thinks of the growth of the credit union movement in the Province of Ontario and the archaic legislation governing the credit union movement; and when one thinks of the changes which have been required of credit unions with flimsy, if any, statutory authority for those changes—and the time which was spent by the select committee—I think it would be a good example of the kind of delay which I think is absolutely unnecessary. My remarks would apply equally well to the field of franchise legislation. Again, I recognize and do not underestimate in any way the complexities and the difficulties of the problem.

Certainly, if we are going to have to deal with major legislation in the way in which we have stopped and started on the credit reporting agencies bill, it seems to me that we are never going to get the kind of flow of legislation from this ministry which the public requires for its protection. I recommend to the minister that the legislation preparation procedures of the ministry be looked into to see where the delays are and what is causing the delays.

The credit reporting agency bill is now before us for the third time, in my recollection. The way this present session is going, it may well be impossible for us to have the kind of public hearings on that bill which the importance of that legislation requires.

The sixth item that I want to comment about is to raise a minor red flag of warning about our financial markets. Somehow or other things seem to go in fashions or in cycles. Disasters in the financial community, in a particular industry or in a particular institution, seem to come and go every few years. Flowing out of the disasters of the Sixties we've had immense improvement in the legislative framework within which the financial institutions of the Province of Ontario operate, so far as they're within our jurisdiction.

We still have quite a long way to go but I'm wondering whether or not in that spate of legislation we still have the kind of vigilance which is required to spot the so-called isolated collapse or financial difficulty that some institution may get into. I have questioned a number of people knowledgeable in the field and the answer always is, "You can't really do anything about that. If somebody wants to be fraudulent we're always going to have to live with that."

It's often stated that you can't legislate

morality. I simply haven't got the slip that I used to carry around in my pocket. The answer Dean Roscoe found to that remark was, you can't legislate—if people say you can't legislate morality, when one looks at the statutes being enacted for practical purposes, we legislate little else. I think the minister would be the first to agree that we legislate standards of behaviour in most of our legislation and most of the fields in which we're engaged.

I'm being very careful about these comments because I have no specific knowledge of any situation which is causing me trepidation. I want to emphasize that. I am concerned when, in the legitimate expansion of legitimate business operations, the desire to get business leads financial institutions to embark into areas in which they don't have the kind of staff which is required to enter that field. They depend on their business attractiveness to get them that business so they can then build up a staff which will do the work adequately. I think that is an extremely dangerous precedent in the field of corporate financing work.

I think I will be raising in the estimates of the Solicitor General (Mr. Yaremko)—again assuming that one can follow the three-ring circus of the Legislature—my basic concern which is not so much with crime in the streets, which I think we're quite capable and able to deal with, but with the white collar crime and the white collar fraud. It is something for which I think we have not got the facilities and the skills and the detection apparatus to head off the kind of financial disaster which, again, has begun to raise its head in the United States. The equity funding one is one example; the Vesco one is another; there are two or three others.

I raise that because our regulatory scheme and the framework of our laws is, as I stated, vastly improved. We're making real progress but somehow or other I don't want to find us faced some morning with a financial institution in serious trouble, which is our responsibility. I don't know the answer but there must be ways that this can be explored without overdoing the watchdog operation of the ministry but to make certain that we aren't faced with that kind of situation developing.

There is very legitimate concern, expressed in the United States in the equity funding collapse, about the way in which the computers have been used for the purpose of practising this deception and fraud within the insurance field—which has always been a business which has been one, within its own



internal workings, of the utmost good faith. And a tremendous amount of business is done by word of mouth, by telephone, in the insurance field.

Mr. Chairman, the last point that I want to refer to is that I frankly don't understand the genesis of the government of the Province of Ontario's policy paper, by the Provincial Secretary for Justice (Mr. Kerr), in the field of competition policy to the federal government. The competition bill has been introduced with the principles enunciated in the original competition bill, to which the business community in Canada rebelled so strongly, and to my mind they overreacted in that particular field.

Nevertheless, this has led the government of Ontario for practical purposes to adopt as its position paper, in the debate with the federal government about the extent of competition policy, for practical purposes, the views of the business community. In this regard, the views of the Canadian Manufacturers' Association and the views of the government of Ontario, as the Premier (Mr. Davis) said, by strange coincidence are for practical purposes the same, even though it was indicated that perhaps the decisions had been arrived at completely independently.

It is, again, a difficult field, but either now, or at some point in the course of the estimates, I would like to have the minister's considered justification for the competition policy of the provincial government. I think this is the appropriate place to raise it because, again, it deals with the whole question of whether or not the marketplace, and the competition in the marketplace, is going to be one of the elements which is part and parcel of keeping prices down to some extent.

Mr. Chairman, there are any number of other matters that my colleagues and I will be raising in the estimates, as they come individually before us, but those were seven areas that I felt compelled to comment about, because I think they embody matters of considerable general public importance, and are very pertinent to the work of this minister.

Thank you, Mr. Chairman.

**Hon. Mr. Clement:** Mr. Chairman, I have listened with interest to Mr. Renwick's submissions, dealing with the seven different areas of concern, mentioned in his comments. With the greatest of respect, and I hope I can give you this assurance, I certainly mean—and my intention is to give this assurance—I just hope, from practical points I can carry through, that we are not de-emphasizing the

consumer-protection aspect of the ministry, but in fact, I hope to increase it.

While we have the one section of the ministry that bears the name "consumer," which is our business practices section, we are of course looking at matters through the eyes and the interests of the consumer when we deal with matters like real estate, purchasing of used automobiles, insurance, collection agencies, purchasing of securities in the marketplace, and this sort of thing.

I think the emphasis necessarily has to shift in favour of the consumer because, as our day-to-day involvement develops, we find that in many areas we have no alternative but to move into them by default. Not all businesses, but a good number of businesses unfortunately are operating under the feeling and the philosophy that everything is well, relating to their industry and its dealings with the public, and that just is not true. I wish it were; perhaps we would not all be sitting here and there would be no problems to solve.

As a matter of fact I have an invitation to have a dialogue such as this with a chamber of commerce in southern Ontario in the next week or two. They are suggesting that we, as consumer-oriented people, are really stirring up this interest in consumerism, and that there are no problems, and this is just a make-work type of activity on our part.

**Mr. Martel:** One would expect that from them.

**Hon. Mr. Clement:** We are moving toward greater emphasis in the consumer protection field, I submit. I refer again to the \$500,000 item, which is in the first estimate, dealing with — and I will get into particulars when we get into the estimate itself as to how we hope to utilize that \$500,000. I will be proposing, possibly this autumn, hopefully this autumn, a Business Practices Act. I think I should touch on this for a moment. If we have a licensing type of system for every activity that we are involved in, as I see it, we become so cumbersome, with staff and facility requirements, that the whole thing is self-defeating.

It is the hope of my ministry that there could be some omnibus legislation that would deal with unethical business practices. Then you could add to that legislation, if I may be so bold as to suggest it, in this fashion—that you have a schedule of those items that are deplorable and deceitful, and deceptive, and instead of having to wait until the problem is created and wait till the Legislature recon-



venes and introduces legislation—somehow have the power to add those deceptive practices, almost as a schedule to the Act, so that you can move quite quickly into these areas of activity that are victimizing different segments of the population. The Franchises Act, and I'll mention that later on—

**Mr. Singer:** That is a very interesting thought, that one. I just wonder how far I would trust a government with that kind of power by regulation.

**Hon. Mr. Clement:** That's very good; that's a lawyer's question, and I share your concern. How far do we go into this "Big Brother" sort of thing—where a practice that you may be carrying on, or I may be carrying on, is added to the schedule tonight—perhaps unbeknown to you. It is a dangerous area and we have to be very much on our toes, and I know my staff is concerned about it.

**Mr. Martel:** Except you can't wait always for the horse to be out of the barn before you shut the door.

**Hon. Mr. Clement:** Well, that's true, and I think you have to try to find an avenue along which to proceed, but you have got to build safeguards in there, and there isn't a lawyer in this room who won't agree with that. I am sure I can go beyond the lawyers in this room and say there isn't a person here who really shouldn't disagree with that statement.

With the price regulation and control—that is a very interesting area of activity. The only price controls that we have in the province, and regulations pertaining to prices, as far as I am aware, are those items that are marketed under a marketing board concept, and usually they are agricultural-type items.

**Mr. Singer:** Energy.

**Hon. Mr. Clement:** Yes, energy.

**Mr. Singer:** Booze.

**Hon. Mr. Clement:** Liquor, that would be an interesting public debate.

**Mr. Renwick:** I don't think that even in the agricultural field we have attacked price fixing at the retail level.

**Mr. Martel:** Not at the retail level.

**Hon. Mr. Clement:** No, not at the retail level, but at really the market level, or whole-sale level. I am thinking of grapes, I am thinking of tobacco, hogs, and that sort of thing. I am accused, through correspondence

and direct confrontation from time to time, of not utilizing the powers that are available to me in fixing prices, and I ask them where they are available to me. I am assured they must be somewhere in those lawbooks.

**Mr. Singer:** There are a couple of sections in the Insurance Act unproclaimed for 35 or 40 years.

**Hon. Mr. Clement:** You threw me on that, because I didn't even know there was an Insurance Act 35 years ago, although I was here.

**Mr. Singer:** I believe that.

**Hon. Mr. Clement:** And you saw fit to ask me that in the House. I have not personally touched on this area with the hon. Herbert Gray, the federal minister. I last saw him, and I have met with him on only one occasion—back in mid-January—and it was pertaining to other matters, which I will deal with when we get down to the competition bill. But at that very day, when I was in Ottawa, they were debating the question of setting up the committee of the members of the House to look into the question of food costs.

I don't know what the answer is. I know this, that if we had legislation in this province—assuming for a moment we had the jurisdiction, assuming for a moment that I monitored it—unless we were competitive with our fellow provinces, I'd be concerned that consumer products would be exported from this province.

**Mr. Renwick:** Oh, I would agree 100 per cent. All I was concerned about is the immense legislative task involved in getting a framework of legislation from 10 jurisdictions, or 11 jurisdictions, in order to have it available.

**Hon. Mr. Clement:** Right. With reference to your comments pertaining to the Landlord and Tenant Act: As you quite properly mentioned, that Act is within the jurisdiction of the Ministry of the Attorney General, and I really have no comments as to the propriety of it being in—and the practicality of it being in—that ministry as opposed to, say, being in my ministry. The matters you refer to, I noted with interest. I understand that the advisory bureaus, as you said, are useless. Some municipalities have brought in that bureau type of protection and others have not. In Niagara Falls we have no tenant advisory bureau.

**Mr. Singer:** It's an interesting wording—"that type of protection."

**Hon. Mr. Clement:** If it is protective—I think it is more of an informative type of thing. And while I'm here, I suggest that they probably won't implement a bureau in Niagara Falls, because I get a fair number of inquiries from constituents pertaining to landlord and tenant matters.

Mr. Cooper has just indicated to me in a note here, we're having a provincial conference of consumer ministers in Quebec City, and I understand Herbert Gray will be there, at the end of this month, May 31 and June 1. The idea of that conference is to consider the possibility of bringing in uniformity of many types of legislation. We did meet with him in January, and it was suggested that, perhaps—and the consumer minister from Quebec was there—we might be able to come up with some type, for example, of common, acceptable, uniform companies return, which is an area that may be of some interest to you. I am wondering if maybe industry and business isn't being badgered by governments, in all the forms we have to complete in each jurisdiction.

I was interested in your comments about the public forum aspect. I have certain sympathy for that submission in certain areas, and in others I think I would be diametrically opposed to it. We are victims—if I may use that word and perhaps it will come back to haunt me—I'll say targets, of certain areas of activity where we are captured. We must live with certain services, protections that are provided to us; we have no alternative to get along without them. We must have medical attention and, if we're sensible, we must have insurance to protect our assets.

I contrast that, where we have that type of activity governing our lives, as opposed to the activity of the independent individual—let's deal with lawyers; many of us are lawyers here in this room. I question the propriety, and the wisdom, of the public setting your rate and mine, if I was practising. Now when we get into the area of legal aid, that's another thing, because the public has an interest in it.

**Mr. Martel:** No, I'm not talking about legal aid. I, as a teacher, have to negotiate a salary, why shouldn't you?

**Hon. Mr. Clement:** Well, that's fine, but if my child goes to school, and you happen to be the teacher, that child is stuck with you. You're not stuck with me, because if you don't want me—

**Mr. Martel:** That is not really true either, though.

**Hon. Mr. Clement:** If you don't like—Elie, I say that out of banality—I would be flattered to have my children taught by you, but I'd have to brainwash them when they were 20.

**Mr. G. Nixon (Dovercourt):** Oh, John.

**Mr. Martel:** They wouldn't even be that old, I can tell you.

**Mr. F. Drea (Scarborough Centre):** That is not what you told me last night.

**Hon. Mr. Clement:** No, but I say this very seriously, because if you came to one lawyer and asked him to perform a certain service and inquired as to his fee, you would have the alternative and, I suggest, a very proper one, of going to someone else if you didn't find the rate acceptable to your purse. But we can't say that same thing applies where, particularly when we deal with matters of medical protection, where the public has a definite financial interest in it, or legal aid, where the public has a definite financial interest in it, or insurance, where the public has a definite financial interest in it, because very few of us operate without insurance. So, I'm just up in the air on that one. As a general submission, I can't really accept it, but there are areas that I find rather intriguing.

**Mr. Martel:** As long as they're not your own. That's protecting the vested interest.

**Hon. Mr. Clement:** Where there is a public involvement, the public is going to have the right to make some contribution, to be sure. Where there is no public involvement, I question it, because, if the workers of a car factory are going to negotiate a raise, do you suggest that we have a public forum to discuss this and those who are connected with the industry come in and have some dialogue?

**Mr. Martel:** There is public involvement. The public has to be able to afford to pay for it.

**Hon. Mr. Clement:** The public has a choice in that area, you see, and if the public doesn't find it acceptable, and the increase to the workers is reflected in the product, you and I as consumers, always have the right to elect not to buy that product if it's too costly. That's why we don't participate in those dialogues.



**Mr. Renwick:** But you can't opt out of professional fees as provided by the professional body. You've got to go to a member of that profession.

**Hon. Mr. Clement:** You have to go to a member of that profession, presumably, but—

**Mr. Martel:** Right.

**Hon. Mr. Clement:** —there are people who, perhaps in their own interests, might charge what you and I would consider to be excessive hourly rates, for example. They may do that in order just to preclude a lot of smaller work from coming in their office—to make themselves available for much more lucrative clients. I don't know.

**Mr. Renwick:** What I was referring to more specifically was the regular legal tariffs.

**Mr. Drea:** The public does have a remedy.

**Hon. Mr. Clement:** Oh, yes, there's the taxing option. Unfortunately, that is after the fact.

**Mr. Drea:** Well, it works.

**Mr. Martel:** But who makes the initial decision on what the levy will be? You don't set your own fee schedule. That's made up by the legal profession.

**Hon. Mr. Clement:** Oh, yes, all that is demonstrated in the tariff is a minimum.

**Mr. Martel:** Right.

**Hon. Mr. Clement:** Not as a maximum.

**Mr. Martel:** So that, in fact, that herring doesn't hold water.

**Hon. Mr. Clement:** No, but if I want to charge you \$100 an hour, and you say, "Oh, I think that's terrible," I'll say, "Go see somebody else, that's what I charge." And you have that right. But I can't say that as I'm lying on a hospital floor with a jagged wound in my throat, saying to the doctor: "What do you charge to sew me up?" That makes a difference.

**Mr. Singer:** Would you apply that same thinking to insurance—which the government has made pretty well compulsory?

**Hon. Mr. Clement:** I think that the public has a very definite interest in it. There's no question about that. Whether a public forum is the answer, or not, I don't know.

**Mr. Singer:** Even a ministerial forum.

**Hon. Mr. Clement:** I beg your pardon?

**Mr. Singer:** Even a ministerial forum.

**Hon. Mr. Clement:** I may be fixed with this responsibility some day and I don't know how I would react, but I would consider it.

**Mr. Singer:** Simply start by proclaiming those two sections.

**Hon. Mr. Clement:** Interesting if we can find them.

**Mr. Singer:** Oh, I'll find them for you.

**Mr. Martel:** If that's the only problem.

**An hon. member:** An offer you can't refuse.

**Mr. Singer:** They're still in the present statutes. The fact is that they've been there for 35 years.

**Hon. Mr. Clement:** Mr. Renwick touched on the question of commissions, the Ontario Securities Commission, and I indicated those hearings, I understand, will be held on May 22. The securities industry has been very concerned about certain attractions that have been offered in other jurisdictions. Security transfer tax is one. The present budget before the House removes the security transfer tax. Quebec removed it, I believe, last May or June. There was some slight adverse effect on the marketplace here—and the matter will be discussed on May 22.

Mr. Renwick's comments concerning the introduction of legislation, by and large I find very valid. It has concerned me. It has concerned many members of my staff, with whom I've discussed this matter. I can't say that the process is the delaying factor. I think, in fairness, that we would have to say that the delaying factor is probably laid right at the feet—and I don't mean just in terms of this being where the buck ends sort of thing—it is probably laid at a very high level in the ministry: the minister's table, maybe the deputy minister's; in my case I think it's on my desk.

I think one of the reasons for this is a matter of time. This genuinely concerns me. If, for example, going back to the Landlord and Tenant Act, we set up some kind of agency within the ministry to handle that, I don't know when I as a person am ever really going to be able to look in on it. I don't say for a minute that I should intermeddle in every little decision made within the ministry—you just can't do it—but in matters of legislation as submissions come forward from staff, and my concern is that I



don't get that submission because I am constantly dealing with delegations.

**Mr. Renwick:** You could get H. R. Haldimand to come up and give him a job.

**Hon. Mr. Clement:** I am sure there are people who would be available to do this. I don't deplore the attendance on delegations. I think it is a good thing. It gets back to Mr. Deacon's submission about contact between groups and the government. But you get to the point at the end of the day where you haven't actually done one thing except constantly meet with delegations. It gets very frustrating because you want to look at the legislation, and I don't mean in the sense that I want, as a lawyer, to try to analyze it—because I am not that capable—but I like to look at the policy proposal that accompanies it.

I like to see the rationale behind it. I like to thumb through it and look at some of the remedies, look at some of the sections in it, and I am just not permitted to because of telephone interruptions and meetings with delegations. I don't know what the answer is but—

**Mr. Renwick:** I just want to make one comment there, Mr. Chairman, if the minister would just let me. It would seem to me that this ministry, which has grown by transfer of responsibilities from other ministries and with new areas added to the diversified nature of this particular ministry, has a very good reason for the minister of this portfolio having the assistance of one or two parliamentary assistants to try to deal in some way with the obvious problems, which we understand and sympathize with.

**Hon. Mr. Clement:** One thing the committee might find of interest is—the day I was sworn in to the ministry was the day that they transferred the former deputy to another responsibility and they elevated my present deputy from assistant deputy to deputy. There is a vacancy within the ministry for an assistant deputy minister.

When Mr. Young was the assistant last year, he assumed a very substantial role in this area and we haven't filled that void at the present time. I was sworn in, I believe, Oct. 2, and by that night I had had the deputy of six years' standing removed, I had an assistant moved into the deputy's position, and both liquor boards thrown on me. I facetiously suggested to the Premier if he had anything else in mind, be sure and call, and he assured me that he would. It was a great day.

That comment about introducing legislation concerns me. It concerns me because of the increased responsibilities, even on the shoulders of the private member, and I think it is a matter of self-discipline in many ways, as far as I as an individual am concerned, in not being available for such lengthy periods of time to delegations.

**Mr. Deacon:** Mr. Chairman, could I suggest to the minister, this is one of the reasons I urged upon him the other method of dealing with delegations—where they in effect are having to deal with people who take a different point of view, where you have a lot of these matters worked out in open session so it is possible for them to see the other point of view you are dealing with. It helps to gain an understanding for all concerned.

I just can't see how you can hope to cope with all these delegations and sort it out in your own mind as effectively as if you had these different groups working in a session at which you were listening to them fighting out their different viewpoints.

**Hon. Mr. Clement:** One thing we always urge delegations to do if they are going to come in and they have a brief, is to get it in a couple of days in advance so we can have an opportunity to read it.

**Mr. Deacon:** But that's a lot of reading and that's a lot of talking.

**Hon. Mr. Clement:** That's a lot of reading and I can spin that off on the shoulders of the responsible official. But by and large a number of them don't like to part with this. They save it until they come in with their 28-page brief and they are prepared to read it.

**Mr. Deacon:** But I still say that the process would work more effectively if you would get that synthesized into workshop-type sessions—with the different points of view presenting their cases, and where you and your advisers can hear what is going on as well as those of the rest of us who are quite concerned with the legislation that ultimately is going to come before us.

**Hon. Mr. Clement:** With reference, Mr. Renwick, to your comments about the warning. You were very specific to make it clear that you didn't have any inside information or anything. You were not indicating that any institution was in difficulty—I accept that. We can try to be as vigilant as we possibly can. The areas of the ministry that are responsible are sensitive to these things in the marketplace. If they have any reason to

doubt activities or to question them, they move very quickly.

I'm thinking of the Securities Commission particularly. They will put in stop-trading orders. They will delist. They will avail themselves of those remedies if they have any reason to believe that some practice is being conducted which is not in the interest of the public. I think that we must always be vigilant in that area.

With reference to the competition bill, I got the impression that it had been reintroduced. It was introduced last year and allowed to die on the order paper and I was not aware that it had been reintroduced as of today.

**Mr. Renwick:** I thought it had been, but I may also be in error. I don't know.

**Mr. Singer:** I think you are right.

**Mr. Renwick:** It may be—

**Mr. J. K. Young (Deputy Minister):** It is a foreign investment review bill.

**Mr. Renwick:** I thought so, too.

**Mr. Singer:** It has been introduced. Yes.

**Mr. Renwick:** But the competition bill has not yet come back into the House?

**Mr. J. K. Young:** Not to my knowledge.

**Hon. Mr. Clement:** I discussed this with Mr. Gray in Ottawa in January, and he indicated at that time it was his intention to reintroduce the bill in a substantially amended form. He said it was presently in the process of being drafted. Obviously he didn't indicate any changes that he was contemplating at that time, but I did have his assurance that the minute the bill was introduced he would get several copies down here to us—have them available so we might examine them. We are concerned about the bill and its ramifications in the marketplace and involving itself in the commercial transactions of the province.

**Mr. Renwick:** Mr. Minister—if I may interject?

That's the kind of thing where, when there is a definite policy statement made by the government or put forward, it would be extremely helpful if that were put in the name of the minister on the order paper and called for debate in the House—for an hour or two hours sometimes. This has such broad ramifications, and there are differing philosophies

about it. I think it's that kind of debate that might give some vitality to the Legislature.

**Hon. Mr. Clement:** I would share that view, Mr. Renwick. I want to touch on one or two other matters.

With reference to the Consumer Protection Act, I would like to move with that as soon as the House time will permit. I would like to get on because I think we are going to have a very valuable dialogue when we reach the committee stage on that bill. As I indicated in the House last fall I would proceed in no other direction but go to the standing committee of the House as opposed to the committee of the whole House.

I think it would be more valuable, certainly to the ministry and to the members of the House, if it could be debated down here rather than up there, because we'll have the advantage of having people within the industry making some contribution.

Interjection by an hon. member.

**Hon. Mr. Clement:** I beg your pardon? Oh, Consumer Reporting I'm talking about, I'm sorry.

**Mr. Renwick:** I thought that's what you meant.

**Hon. Mr. Clement:** What did I say?

**Mr. Renwick:** You said Consumer Protection and—

**Hon. Mr. Clement:** The Reporting Act; the Consumer Reporting Act.

**Mr. Singer:** Could you pause for a minute there, Mr. Minister?

Could I commend your attention to sections 365, 366 and 367 of the Insurance Act. As I continue to read them, they give you complete power to control insurance rates. However, each of those sections devises that they shall not come into force until the day proclaimed by the Lieutenant Governor. I think if you will track those sections back, you'll find they have been in the Insurance Act for 35 or 40 years. They have never been proclaimed.

**Hon. Mr. Clement:** Would you like some comment on that now or do you wish to wait until we get into the estimate? The reason I say that—

**Mr. Singer:** I'll say that since you were surprised by the existence of the sections, I thought I would help you by showing you where they were.



**Hon. Mr. Clement:** You have been helpful to me in many areas, not all of them pertaining to government either I might add.

All right, we'll withhold comment on that, if we may, until we get into the estimate on it, but I do have the superintendent available here. That's the only commentary I have, Mr. Chairman.

**Mr. Chairman:** Thank you. Shall we then deal with vote 1301, item 1?

On vote 1301:

**Mr. Renwick:** Mr. Chairman, on vote 1301, item 1, does the main office include the office of the deputy?

**Mr. Deacon:** No, it is right below.

**An hon. member:** That's the assistant deputy.

**Mr. Deacon:** That's an increase of 3½ times.

**Mr. Renwick:** I only raised it because of the comment which you had made that Mr. Young, who had been the assistant deputy minister, is now the deputy minister.

**Hon. Mr. Clement:** Yes, but those areas still flow up to the deputy minister.

**Mr. Deacon:** Can you give us a breakdown?

**Mr. Renwick:** We are talking about the deputy minister's responsibility under item 1, is that correct?

**Hon. Mr. Clement:** Yes.

**Mr. Deacon:** Can you give us a breakdown?

**Mr. Havrot:** What is the main reason for the \$553,700 increase over last year's estimates in that particular item?

**Hon. Mr. Clement:** The deputy minister's salary!

**Mr. Singer:** He's worth at least that!

**Hon. Mr. Clement:** The item raised by Mr. Havrot—\$500,000—

**Mr. Havrot:** It is \$553,700.

**Hon. Mr. Clement:** Yes, \$553,700. Well, \$500,000 is an item charged to the minister's office for a consumer education programme.

**Mr. Deacon:** Where does it show up? I see services for \$309,000 and grants to storefronts, \$250,000, but that isn't it, is it?

**Mr. J. K. Young:** Yes, the rest of it is in services; there is another \$250,000, I understand, in services, making a total of \$500,000.

**Mr. Deacon:** Can you give us a breakdown of that \$309,700 then?

**Mr. Renwick:** Perhaps the minister will make a statement about the storefront consumer groups and of the policy behind it. It would be helpful.

**Hon. Mr. Clement:** The \$500,000 item I have here within the estimate is for updating of informative literature in the form of pamphlets estimated at \$100,000; consumer education movie \$50,000; grants to storefront consumer groups \$250,000; ministry-produced courses for consumer education for the public \$100,000.

Nepean township has undertaken, you may have read in the paper, a storefront-type operation which is funded by the municipality of Nepean township and staffed by volunteers except for one lady who is a full-time employee. I believe she is being paid \$5,000 per year. They have made a request for some funding in the form of a grant to that type of operation.

The rationale behind this is that the sophisticated consumer is pretty well able to look after himself; the unsophisticated consumer, if I may use that terminology—in terms of understanding the language or formal education or lack of it—is in a quandary and doesn't know where to look for assistance. I think we all have this kind of question demonstrated to us as members, people ask us matters that don't really relate to government but relate to quasi-legal or legal matters.

The idea is to have it set up so that it is available to the people in that area. The intention would be that it be in perhaps lower-income areas, if they are discernible on a city scale, as opposed to in the main downtown business area, making these services available and letting the people know what is available for them. There is a certain tendency, I think, for people to make an inquiry at a point or two and someone says, "This isn't provincial responsibility; it's federal." By this time they are frustrated and they just don't follow it up any further.

**Mr. Deacon:** Aren't you overlapping here with the Ministry of Community and Social Services? They have these community groups providing information. There is some assistance for them. I think there are some grants going out to them.



I look on your role as being one more similar to the type being done in Pennsylvania by Denenberg. He's putting out comparisons; he's got several things that are really exciting people in the way of making them aware of the value they get for their dollar. Isn't this what we are after?

**Hon. Mr. Clement:** I understand one of his frustrations is that he is exciting people but he can't get his legislature to back them up with funding for it. He is getting them all excited, but then he can't do anything on a practical basis to bring his programmes into effect.

**Mr. Deacon:** Look at the performance, though, as far as the actual "Information Please" cost is concerned, or even in its actually solving problems for consumers. You have Don Gowdy in the Star Probe. Last year on a budget of about \$100,000, with four or five staff, he had 76,000 written complaints of which he estimated they resolved about 90 per cent to consumers' satisfaction, but your department—

**Mr. Drea:** Mr. Deacon, I was in the trade.

**Mr. Deacon:** I realize we have the expert sitting here.

**Mr. Drea:** I was in the trade, Mr. Chairman. I don't dispute that somebody gave the member those figures but (a) I would dispute his budget very much; and (b) I would dispute the fact that 90 per cent of the 76,000 complaints were resolved to the consumers' satisfaction, other than they accepted the inevitability of defeat.

**Mr. Deacon:** You certainly know more about this than I do and we would have to have Mr. Gowdy up here to verify this. He did verify these figures though, and they were checked today with him. As far as he is concerned that is what he is prepared to stand on.

We had 4,000 complaints in our consumer protection bureau and an estimation of 60 per cent satisfaction. The cost of it is a great deal higher on a per complaint basis than what the Star Probe is able to do. Somehow or other we just aren't visible enough in the eyes of the public and the cost that you are talking about there is fantastic for the area that you are serving.

**Hon. Mr. Clement:** I know nothing about this man's programme, and I am not prepared to criticize it because that wouldn't be fair; I am just not knowledgeable.

Take a look at the sketch of the various facets of the ministry. Every one of those is receiving complaints of a various nature. The figure of some 4,000 which I think was given in last year's estimates related to inquiries coming in only to the business practices section, or the consumer protection bureau as it was then called. People who have complaints about an insurance matter invariably contact the superintendent's office, and they are not reflected in the figures relating to the consumer protection office.

So I don't know what our incidence of success would be—I don't have those figures here. Whether I could indicate that we were 60 per cent successful or not, I just don't know.

**Mr. Deacon:** What I am really trying to get at is the public awareness of your work and the public use of your work and the cost of operating it compared to, say, Star Probe.

Recently a student of U of T did a survey of 100 middle-class acquaintances as to their degree of knowledge of their rights and recourse as consumers. He asked the 100 interviewees, among other questions, "Are you familiar with the Ontario consumer protection bureau, or Box 99?"

Of the 100 respondents, 59 had never heard of the consumer protection bureau. Of the 31 who had heard of it, only 18 knew where it was located. And, in answer to the other question, it emerged that only 38 people out of the 100 knew of the existence of the Consumer Protection Act. Of these 38 only 16 were familiar with the cooling-off provision in regard to door-to-door sales. Of these 16 only nine would have correctly cancelled the contract. And obviously, among low-income consumers, where generally the education level is also lower, one would expect the figures to be even more depressing.

I just point to what they are doing down in the States, with this programme of Denenberg's. Whether he is getting enough money or not, he is doing something to really make people aware of their rights and this is one of the prime jobs we must do.

**Hon. Mr. Clement:** I don't wish to deprecate his efforts but I would like to point out that he aspires to be the Governor of Pennsylvania too. He is running for office.

**Mr. Deacon:** Bully for him.

**Mr. Martel:** About that amount of money you are spending—that \$500,000 doesn't include consumer protection officers.

**Hon. Mr. Clement:** No. The matter that Mr. Deacon touches on I think demonstrates the need for this type of item within the minister's office. There is no sense having a programme or having an agency available if the people don't know about it. It just doesn't make sense.

If you build a fine product but you haven't got a market then you may as well not have the product. We feel that we should put greater emphasis on this to bring these services and agencies to the attention of the public and a good number of the public will respond. There will be those among the public who will never respond, who will never read. In this day and age, I find the lack of information appalling. I wonder if maybe the news media and we as politicians have fallen down—

**Mr. Deacon:** Maybe it is the way we are doing it. One of the suggestions a chap made in this particular area is that you have somebody in your department write a column and the column set out or name firms, where justified, that are engaging in unsatisfactory practices. This leaves you open for a defamation action, perhaps, or something of that sort, but this is what Star Probe is doing effectively. This is what Pennsylvania is really using, with good research, as a way of getting attention. It is putting out comparative tables on insurance rates among the various insurance companies and is publishing brochures setting out comparative interest rates offered by consumer finance organizations and publicly naming merchants who are engaging in shady practices.

It certainly would make your department very visible. I agree you have to have good research and know the basis on which you are making these statements. This is a much better way of getting visibility than spending money on advertising or even on brochures.

**Hon. Mr. Clement:** I think we have to bring these things to the attention of the public in a more positive fashion. As you know, there is available to school boards a consumer education programme within the secondary school area of activity. I spoke to the consumer association last Saturday in Guelph and they took the position—not an official position—but they took a position from the floor in the debate and discussion we had afterwards that perhaps it should even be made available in senior elementary schools.

A good number of people just don't know what it means to sign a document. Again, I relate to my experience in practising law.

People would change their minds and sign an offer to purchase and say, "Well, I can get out of that, can't I?" In other words, it doesn't mean anything. They just sign to go through a formality and they don't realize the binding terms of that agreement. While we are not here to educate people in sophisticated agreements, I think we should make available to them the knowledge that certain practices are contrary to the public interest, so they are put on notice.

**Mr. Deacon:** But if you name the offender, you really get much more attention, and get it more quickly.

**Hon. Mr. Clement:** Last fall, we had a series of complaints against a certain paving contractor within this province—we had some 56 complaints. I toyed with the idea of making a statement, certainly not in the Legislature, but to the press saying we had had 56 complaints against the "XY" paving company.

I sought an opinion from the Attorney General's office as to what my position would be and it was pointed out to me very forcefully that unless you checked out every one of those complaints, and saw that they were valid, you might find it was some nefarious programme set up by a rival to discredit what might ordinarily be a very—

**Mr. Deacon:** That is what I said to begin with; you would have to check them out before you named somebody—but when you have investigated something and you find there is real reason for the complaint, then the way you really get attention is when that person is named publicly.

**Hon. Mr. Clement:** I wouldn't want to go the full route and say that in my opinion—or let's put it this way—that we have had one complaint against Deacon Paving and we have had 20 against Clement Paving and thus by inference suggest that you are the best. We are now patting you on the head and we might be criticized, I would suggest very validly, for that sort of thing.

**Mr. Deacon:** I certainly think the member for Scarborough Centre would have a lot more knowledge than I have of what you can do in this regard and what you can't do. I would be interested in what his thoughts are.

**Mr. Drea:** It is a very difficult field, Mr. Deacon. It is fair game for newspapers, and I agree with you there. But when you get the state endorsing or not endorsing certain people and certain things, you are into a very

dicey area. Before you interrupt, I don't think this is an insurmountable handicap, but certainly it is one that has to be looked at.

**Mr. J. P. MacBeth** (York West): It seems to me, Mr. Chairman, that you would have a government blackmail list. This would frighten me and I am sure if you ever got into it the hon. member wouldn't want any part of it either. Think of the power that a government would have with such a list. If there are charges and the government has the evidence, certainly it is a matter for the Crown attorney to do some prosecuting. But if it is just a suggestion that these people are wrong, I can't think of a worse power for any state to exercise.

**Mr. Drea:** If I could raise one other thing with you, Mr. Minister; there was some difficulty some years ago—I want to say it correctly because there is trouble with the trade name—what was it, Prudential—

**Mr. Renwick:** Finance.

**Mr. Drea:** Finance. One of the difficulties was that you had a voluntary regulatory body, if you want to call it such, in the Better Business Bureau. The Better Business Bureau became very embroiled in that controversy because Prudential Finance was a member and people would call up and say, "Is Prudential Finance a member of the Better Business Bureau?" And the answer was, "Yes, they were." Their business ethics, the way they handled their day-to-day opera-

tions were such that they qualified to be in that category.

Unfortunately, their business policies, without getting into details; I forget whether the thing is before the courts, or over, or what it is—the difficulty is that their high-binding cost people a tremendous amount of money. Another difficulty you get into is, are the people basically honest but screwballs? Or are they totally dishonest? This is a very wide field.

**Mr. Chairman:** Are there further questions on item 1?

**Mr. Drea:** Mr. Chairman, before we rise perhaps I could put something to the minister? Mr. Minister, on the votes pertaining to the business practices division I have certain matters I would like to raise under the motor vehicle dealers' section, and I would appreciate it this year if perhaps the people who are responsible for that division might be in attendance. I attempted to raise it last year and there was no one here in attendance.

**Hon. Mr. Clement:** We'll have them here, Mr. Drea.

**Mr. Drea:** The reason I am asking this, Mr. Chairman, is for the convenience of your committee.

**Hon. Mr. Clement:** We'll have them here.

It being 6:05 o'clock, p.m., the committee took recess.

## CONTENTS

Thursday, May 10, 1973

Ministry administration programme .....	S-263
Recess .....	S-285













# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Thursday, May 10, 1973**

**Evening Session**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 10, 1973

The committee resumed at 8.05 o'clock, p.m.; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1301:

**Mr. Chairman:** When we left off, I believe Mr. Renwick was about to ask a question.

**Mr. J. A. Renwick (Riverdale):** Mr. Minister, I am speaking now of this additional \$500,000 for consumer protection—storefront consumer groups. I'm concerned about how you co-ordinate a programme such as this with the programme of the federal government.

I noticed within the last year, in June, your counterpart in Ottawa announced for practical purposes the same thing—consumer help offices. You'd almost think that the minister, in commenting about this, had used this report.

Many consumers, particularly in lower income groups, remain unaware of the legislative protection offered them by the department of Consumer and Corporate Affairs and other federal and provincial government departments, and they may not know where to turn their complaints about shoddy merchandise or service or an unresolved grievance stemming from unfair business practices, and so on and so forth.

I'm concerned. Is it a game that you are playing with the federal government about who is going to assume what roles in this area, or are you co-ordinating your effort? Are you going to have overlapping facilities and unnecessary duplication of expense to the taxpayer? How do you relate the two matters?

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** Well firstly, Mr. Chairman, and members of the committee, we don't know what the vehicle is that would best serve the people of this province. To use the terminology "storefront" may be

just a little too trite. I have been using that here earlier this afternoon to indicate a communications outlet that is available to most people who require this service. Only \$250,000 of this \$500,000 increase refers to this type of project. I don't know what is best. I think it's an opportunity to give some credence to comments which have been made in the past by members of former estimates committees. They said why don't you bring the programmes to the people? Why don't you communicate with them and make these things known to them?

Insofar as co-ordination with the federal agency is concerned—yes, we have to. There is no question about it. A duplication is something that concerned me some months ago, and it also concerned the federal minister. In our discussions with him and in later dialogue by correspondence, we agreed that we would not go into an area he is already occupying with his "Box 99" programme or his storefront programme; nor would he come into one of ours. There is no sense in having two agencies within the same block in the same city.

In spite of the political differences which exist between this government and the one at Ottawa, insofar as the co-ordination of programmes is concerned, we have found that our counterparts in Ottawa co-operate most extensively with us. Hopefully we reciprocate in the same fashion.

So we are looking at this as an experiment. It may be abortive, I don't know. I wish I could sit here and assure this committee that it's going to be a decided success. I can't give those assurances. I just don't know, Mr. Renwick.

**Mr. E. M. Havrot (Timiskaming):** Does your ministry not have any specific plans as to what you are going to do with these funds, how you are going to implement the programmes or—

**Hon. Mr. Clement:** Yes.

**Mr. Havrot:** —or where you are going to implement the programmes?

**Mr. Renwick:** Could you just let the minister finish on this aspect of it?



**Hon. Mr. Clement:** Excuse me for a moment; I just want to get this other item here.

We are talking initially of the sum of \$500,000. That is the total sum. Insofar as the so-called storefront consumer operation is concerned, we are talking the sum of \$250,000. I'd like to identify that sum if I can.

We may not reach that sum. I don't think it should be spent just for the sake of having it available. We are utilizing the service of a consultant right now to give us some alternatives—to give us their considered opinion as to the best utilization of this sum of money.

It may not be \$250,000 for a storefront operation, in the sense of many storefront operations. It may be a blending of two or three alternatives which he may suggest. But we think it's—I was going to say exciting, that sounds rather corny—we think it is a challenge to the ministry to bring the work and the programmes of the ministry to the person on the street who needs, in our opinion, help.

If everyone knew the remedies then we wouldn't even be in existence; and in many instances, as we all know, there are no remedies.

**Mr. Renwick:** I'm not suggesting at all that it's not an experiment nor in an innovative stage that you are involved. But it does seem to me there is a direct analogy—from a financing point of view—between this and the agreement between the Province of Ontario and the federal government under which the federal government provides funds for the compensation of victims of crime.

Is it possible that by a more positive co-operative attitude from your ministry to the federal government you can have an agreement under which you would get financial assistance from the federal government in this kind of joint venture? Do you see any reason why it need not be co-ordinated as a joint operation?

I'm very interested in the other point, because I know there is a group in my riding which is most interested in making an application for a grant if they knew how to do it.

**Hon. Mr. Clement:** Yes. I have already had an inquiry of one member of this committee as to how one goes about making an application for a grant, and I can appreciate the concern of the members of the committee.

We touched on the question of a joint venture with Mr. Gray in Ottawa; and in fairness to him he had been in possession of the ministry for about four days, as I recall. I felt a little bit superior because I had been in charge of my portfolio for about three months, so I was an expert compared to Mr. Gray. But I'm sure the distinction has long since disappeared.

They indicated that, no, they didn't want to go into a joint venture. Their responsibilities were in certain areas; ours were in others. They felt there would be problems of supervision—who is in charge of the store sort of thing—that it could create situations of conflict which wouldn't serve the ultimate beneficiary of both programmes, the consumer.

But he assured me they would not go into any area without advising us in advance where they intended to locate, and he requested the same co-operation from me; and I gave him that assurance.

There is great co-operation now. Many times people call in to us, right at the ministry office inquiry, and they are advised, if it is a federal matter, that it is federal and who they should contact. Then they are given a number or the box number if they want to send in a written request, in order that they can be put into touch with the right agency that is looking after it.

So I can't visualize, in view of the remarks made by his officials and by the minister at that time, that it would be a joint project shared between us and the federal government. I do visualize a shared or a joint project between this government and municipalities.

**Mr. Havrot:** Mr. Minister, we have something like 24 offices of northern affairs throughout northeastern and northwestern Ontario. Is there any possibility of co-ordinating these programmes with those offices?

**Hon. Mr. Clement:** Yes, we have resource people in certain northwestern areas in Ontario, and we hope to be able to utilize the services of those people. They might not be able to demonstrate much expertise, because the bulk of their responsibility would be in another area. But if they can recognize that there is a consumer problem and advise the persons of the name and address or the telephone number of the agency with which they might make contact, then they are performing better than no service at all.

**Mr. Havrot:** Almost all of them are equipped with Telex right now, giving direct contact with Toronto for information should you require it.

**Hon. Mr. Clement:** Yes, we would like to utilize it, and when we get into another part of the estimates we will discuss this. I think there were certain matters touched on last year in estimates as to where an expansion of our consumer offices should go. This is not the storefront operation sort of thing. Last year, I believe the minister at that time gave an undertaking, or the equivalent of an undertaking, that there would be a consumer office placed in western Ontario, namely in Windsor, and we are moving in that direction right now. We are going to have a man down there; if he isn't there now he is going to be there very shortly, additional staff.

**Mr. Chairman:** Mr. Deacon.

**Mr. D. M. Deacon** (York Centre): Yes, Mr. Chairman. I wanted to come back to the storefront operations and the fact that there is a lot of duplication between these and the information and assistance facilities that are being provided in different communities by volunteer groups. They are doing it for all types of problems, including these.

I was rather shocked to think that you have to pull in a consultant to decide how you are going to spend \$250,000 that has been set aside here. Shouldn't you be working with the Ministry of Community and Social Services on its programme of funding, and make a provision for funding of groups? They have to meet certain requirements, because a consumer doesn't always know whether the problem he has has to do with a consumer protection matter or some other aspect of government responsibility, or it may be just something in the local community that can handle it.

**Hon. Mr. Clement:** No, the Ministry of Community and Social Services is aware of our entry into this area, as just a matter of consideration. We are concerned, and I think I begged the question with Mr. Renwick, and I am sorry I had forgotten it, he is going to give us some advice as to the guidelines which should be established so that a community or municipality knows how to enter this joint venture with us.

**Mr. Deacon:** Wouldn't it be a good idea to get together some of these groups that are already operating, and add to that group you are talking to some representatives of the Canadian Association of Consumers, and say: "Look we have got some money here, how should we handle it?" Because they are the ones that are now doing a job. They are the ones that know what is needed. Surely they are the ones that would be much more—

**Hon. Mr. Clement:** They have already been contacted.

**Mr. Deacon:** Are they part of a process of arriving at a solution?

**Hon. Mr. Clement:** Yes, they are evaluating and are going to come back to us; they are aware of this.

**Mr. Deacon:** I would just feel that if they were in discussing the thing with your ministry people as well as ministry representatives from Community and Social Services, you could get to a solution much more effectively than a consultant could do.

The member for Riverdale mentioned the area of federal government responsibility; would it be not wise for you to definitely establish, as clearly as possible, now, the general guidelines of responsibility? For example, if they were the ones who set the standards and you were the ones who were evaluating and not being sort of concerned with standards as you are in a comparison of values and that sort of area, wouldn't that be the better way?

**Hon. Mr. Clement:** I wish the areas were as crystal clear as that. Generally that is the rule of thumb, but there are exceptions to it.

We set standards, for example, in stuffed and upholstered articles. I talked to my counterpart in British Columbia and said: "Why don't you have one of these?" He said, "Why should we? If it comes in with a tag saying it is made in Ontario of new goods we are happy with it. Why should we set up a programme?"

The feds are the same way. They said: "You are looking after the programme so we don't want to touch it."

**Mr. Deacon:** But that still doesn't help each of you solve your future area of responsibility in developing that most effectively. Surely they realize the advantage of their concentrating on that field for example on stuffed articles and what the standards must be, and then those toys won't appear in our Legislature, they will appear in the House of Commons instead.

I would think it is important right now to set down those principles with the minister. Surely he would be agreeable to that?

**Hon. Mr. Clement:** Just hypothetically, if we were able to establish 40 agencies of this kind and the federal government was able to establish 40, we feel that we would jointly serve the public a lot better with 80 contact places throughout this province than 40.



**Mr. Deacon:** I feel the public would really be perplexed. Really you want to have your contact places operated by community groups which know the community.

**Hon. Mr. Clement:** When I say 40, we are not as a ministry opening 40 and staffing them with ministry people. Rather than go that route, we would like to utilize 40 community centres or 40 community agencies, which we will help fund, to get the involvement of these people in it. These are the people who are dealing with their own neighbours and friends, and we think that the credibility of the programme would be much greater by dealing with people through their own agency and their own community group.

**Mr. Deacon:** I concur with that, but the fact that one set of 40 has to go to Ottawa to get help and the other comes to Queen's Park is going to be a most perplexing situation.

**Hon. Mr. Clement:** I don't know, I think the average person who has an inquiry wants to talk to someone about it. Invariably right now they are talking to their member, if they know enough to contact their member.

**Mr. Deacon:** I can see that.

**Hon. Mr. Clement:** But if there is a visible agency in the community, I don't think it matters much to the inquirer whether it turns out it's a provincial or a federal matter as long as somebody gets on the problem and helps him resolve it.

**Mr. Deacon:** But just picture the chaos in getting the funding through to those 40. One set of 40 finds you can get a little bit better deal out of Ottawa than another group, and suddenly there is a wave coming across—

**Hon. Mr. Clement:** Pardon me! I don't think Ottawa is going into the storefront thing in partnership with municipalities. My understanding is that they are going to staff them directly with their own people.

**Mr. Deacon:** Then Ottawa, if they're doing this, are doing a programme that is quite contrary to the principles you are trying to adhere to. That is, using local community people.

**Hon. Mr. Clement:** In fairness to Ottawa, I think they are kind of expanding their operations on the same basis that we are to see just what is the best vehicle to carry this type of programme into the community.

**Mr. Deacon:** I'm sorry to hear this, because I really feel what we are heading for is chaos when they don't head off into a very definite area of responsibility, and give you yours, and then you in effect have a—

**Hon. Mr. Clement:** That is why we are in the planning stage, so we don't get into the chaos.

**Mr. Deacon:** But you are saying that you would like to have 80 contacts; Ottawa with 40 and you with 40.

**Hon. Mr. Clement:** Those figures, by the way, are hypothetical. I don't know what the figures are.

**Mr. Deacon:** I realize that's hypothetical, but the principle of it seems—

**Hon. Mr. Clement:** I think the federal people indicated they are going to have six.

**Mr. Deacon:** I think this is just crazy.

**Mr. Renwick:** It says here there is staff from the consumer services branch in Ottawa and others recruited from the community served by each office. It seems to indicate a joint financing. Could I—

**Hon. Mr. Clement:** I think they are going to be civil servants.

**Mr. Chairman:** Just a minute, Mr. Renwick, I think Mrs. Campbell had a question on this very point.

**Mrs. M. Campbell (St. George):** No. Mine is just on a service which I hope would perhaps be incorporated in any such scheme. If Mr. Renwick is following this line then—

**Mr. Chairman:** Fine, thank you!

**Mr. Renwick:** All I wanted to ask was, the minister hasn't informed me how the group in my riding gets the grant.

**Hon. Mr. Clement:** I haven't got the guidelines but I will make them available, because unless they are available right across the province then the programme just won't get off the ground.

**Mr. Renwick:** How successful is this? Is it gone by the board?

**Hon. Mr. Clement:** I beg your pardon?

**Mr. Renwick:** It just didn't work, the consumer caravan.

**Hon. Mr. Clement:** I'm not very familiar with it. I can't answer.



**Mr. Renwick:** I'm surprised about that, because there was a great fanfare about it. It seemed to be a good idea.

What about the film, Mr. Minister? Is that film in process now, or are you hiring somebody to do that film work?

**Hon. Mr. Clement:** No, the film is not in process right now. It may be several films for secondary school and community agencies to utilize in their own neighbourhood. The consultant undertook to give us some advice on this. I don't know.

Maybe we're too late in the year for it. We're talking in terms of next March. Maybe we're not going to have the thing underway. I just don't know. I wish I had the answers to that. I don't know.

**Mr. Deacon:** Maybe you should have considered asking the Canadian Association of Consumers to help you put that together, because I've seen a community group put together a very good film, a 55-minute film, in a matter of four months.

**Hon. Mr. Clement:** Yes.

**Mr. Deacon:** And I'd think you'd be surprised at how much skill there is available to you from within those groups that would—this particular film cost \$10,000, which is a lot different than \$50,000, and it's a very effective colour production.

**Mr. Chairman:** Any further questions?

**Mrs. Campbell:** Yes.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** Could I get back to the storefront? I was just wondering, first of all, I am inclined to, I do agree with Mr. Deacon on the matter of what I think is the wrong way to go about this thing. I have to voice that opinion.

I think the problem that people have, as I have seen it as a municipal person, is they are constantly being told that their problem is not municipal, it is provincial; and then they get to the provincial level, they're told it's federal. I think they should have one common place, surely, where they get all the information they need at one time.

However, I do like the idea of community involvement. I do commend that.

The thing I was wondering about was whether, if you are going ahead with this, if it would be possible to get co-operation to extend the programme of credit counselling. There is an overlapping problem, as I found

it in municipal work, where it isn't just counselling on credit, but where there have been some practices that, I think, could bear scrutiny.

I would think that in an area, such as you contemplate, you would find this problem a very predominant one. And there really isn't—people have had a great deal of difficulty in getting through to the limited facilities there are. Could some thought be given to that kind of co-operative effort if you're going ahead on this basis?

**Hon. Mr. Clement:** Mrs. Campbell, the responsibility for credit counselling was recently transferred to Community and Social Services because the bulk of the inquiries actually came in, as you can—

**Mrs. Campbell:** I'm aware of that.

**Hon. Mr. Clement:** Yes. In my personal opinion, and I'm not speaking for the ministry, I'm just talking as an individual, I think that is probably the greatest area of concern to the ordinary consumer today.

**Mrs. Campbell:** That's right.

**Hon. Mr. Clement:** And it's just appalling to learn, and any of us who have been involved in community agencies or practising various professions have had this demonstrated time and time again, that a good number of people don't have the most basic of concepts in dealing with credit. They're not concerned with what the interest rate is. All they want to know is what's the monthly payment until they get to that big balloon at the end of the term. And to further complicate it, there's very little information available to them.

**Mrs. Campbell:** This is true.

**Hon. Mr. Clement:** I think you've touched on a very, very responsive chord with me, I'll tell you that.

**Mrs. Campbell:** Mr. Chairman, the reason I say this: Before we had Legal Aid I set up my own legal aid office in Regent Park, for example. It was there we found that most of the problems were with reference to this particular area. I did find practices that I felt should have some scrutiny. Really, I think this has to go further and it has to be looked at.

Again, you get people involved in this problem, because they are getting into Ontario Housing and have to get furniture to get in, so it overlaps many departments. I would like to see some look at this which would

be comprehensive. I don't think you can always departmentalize these problems, with respect.

**Hon. Mr. Clement:** I think you've probably touched a very vital spot. I just think the value of having someplace where a person can walk in off the street and say: "Here's my problem. What do I do?", and someone on the other side of the counter might not know the answer but recognizes where the answer can be obtained.

**Mr. Deacon:** Right! That's the key.

**Hon. Mr. Clement:** Then say: "Here, I will call them over there, make an appointment for you to go there right now, or tomorrow, and get in there and talk to these people on it." Or better still, if the person across the counter had some skills in that themselves, then they could impart some knowledge, because I think the inquirer might say: "Well, I'm being put off," and turn around and walk out and he's really still frustrated. His question remains unanswered.

**Mrs. Campbell:** Mr. Chairman, I must say this and I don't want to labour it. If he could go today or tomorrow that might be great. I don't know how far they are behind now, but certainly, it took some considerable period of time to get an appointment, in my experience.

When I was in the court I was constantly sending people to this place. I think that it needs something a little more on the spot than we have.

Certainly those who are working in the field are doing a fine job. I'm not critical of that. I commend them, but there just aren't enough hours in the day for them.

**Hon. Mr. Clement:** Well, we think this is an opportunity to bring a lot of these programmes and services down to the people who are in need of these types of programmes. I want to make it crystal clear that I cannot give this committee, I cannot give the Legislature through this committee, any assurance of the success of these programmes. I just don't know. But I think that they're worthy of trying.

I expect it's like everything else; some may be very successful, some may be unsuccessful. There has to be some determination made after a certain period of time, so that we can then come back, in a year's time, and demonstrate to this committee the success or failure of any aspects of this programme. I do feel we will be providing

a service that is presently not being provided to the people today. And as has been demonstrated, in the comments by this committee, that is the estimates committee dealing with my ministry, in years gone by, I think it's worthwhile.

The fact that this money is available this year—there is no assurance from the ministry that it's going to be available in years to come—but I think, on balance, if the programme is successful, and if that is the consensus of this committee, this time next year there's going to be an obligation on the ministry to go back to management board, and demonstrate the success of it so that it's a continuing thing. Because we don't want to start something that could be very successful for just one year and then drop it. That would be an act of irresponsibility on the part of the ministry, if we went that route 12 months from now.

**Mr. Deacon:** Mr. Chairman, may I say something further on—

**Mr. Chairman:** Excuse me. Mr. Carruthers has a question.

**Mr. A. Carruthers (Durham):** I would just comment, Mr. Chairman, about the emphasis there seems to be on an agency that has contact with all levels of government; I thought you were talking about the local member of Parliament at that time. Because he does. I was wondering if I was going to be eligible for a grant under this programme when I set up my own office.

I wonder, what agencies do you work through in the local level, say, at towns like Port Hope or Cobourg? Do you have—

**Mr. Renwick:** Probably the NDP!

**Mr. Carruthers:** They haven't got any NDP down there.

**Hon. Mr. Clement:** I think there are community planning councils, social planning councils; there are agencies of the Red Feather or United Appeal.

**Mr. Carruthers:** Chamber of Commerce?

**Hon. Mr. Clement:** Any bona fide agency that would come along. I would rather see it at the municipal level. I don't want to see any particular group that is just created for this purpose.

In Nepean township, now in effect without any grants from us, it's a municipally-oriented type of undertaking, because of the pressures that have been exerted up in that area. They have asked us for financial



assistance in the form of a grant—they are working on a very modest budget. An article in the local papers within the last week described this undertaking, which has just got off the ground. I think it should be done with the approbation of the municipal people.

**Mr. Carruthers:** Right, yes; the local municipality would be involved?

**Hon. Mr. Clement:** Oh, yes!

**Mr. Carruthers:** Yes, this is important.

**Mr. Deacon:** But is it necessary? In our own area, I think, we have four of these groups working. They have got some very modest government grants, but I would say that we are probably getting about 10 times the value from them because of the voluntary input, than we would if they were a government service, whether municipal or provincial. I think it is important that one doesn't confine oneself to assisting actual municipal government groups. The most important thing, I think, is that the group is truly representative of the community and has proved that it has community support.

**Mr. Carruthers:** That doesn't restrict voluntary participation. The fact that—

**Mr. Deacon:** No, I realize that; but it is very difficult to get voluntary participation in any government body to the same extent that you can in other bodies to which governments can give some assistance. I think it is important for there to be a requirement for such an organization to get actual voluntary contributions of money, as well as time to prove that they do have support.

**Mr. Carruthers:** What I am getting at is there should be some elected responsibility where provincial funds are being granted.

**Mr. Deacon:** I don't think so. I don't agree with that. I think that the public somehow doesn't always trust those of us in government.

**Mr. J. P. MacBeth (York West):** Mr. Chairman, through you to the minister, my remarks are somewhat different from those you have been hearing. I am looking at this vote 1301, in particular, and notice the large increase over the last year; the whole budget for the whole ministry is up considerably. As we all know, there is a debate going on upstairs and it will be going on for some time, in connection with raising more money to pay for this sort of thing.

Now everything we are hearing here today is encouraging you to spend money. I am not against such a large sum for experimentation—it is certainly a generous sum and I don't want to see you cut it so that you can't do some experimenting in this field. But I would hope that you make sure before you spend this large sum that you have a pretty constructive, definitive track on which you are launched.

The total budget is up considerably. I wish really that this committee was paying a little more concern to trying to encourage you to spend less rather than trying to encourage you to spend more.

**Mrs. Campbell:** That is what we are doing.

**Hon. Mr. Clement:** You may be interested in the fact that we have been talking in terms of the larger sum, the \$500,000—the increase is \$553,700. I would just like to tell you about the other \$53,700, if I might. Information services would utilize \$20,000; salary increases, \$13,700 and research, \$20,000.

We have had some very strenuous submissions made to us by the Consumers Association and certain other similar groups as to research. Limited though my experience be, it appears that the best value per dollar is obtained in areas of research through having independent research done outside the ministry by different people from time to time as opposed to setting up a research wing or a make-work project.

You have the enthusiasm of the researcher. I have commissioned one project since I have been minister. It was for a certain pre-fixed sum under contract so that you knew before you went into it, and the researcher knew, how much was available, or the cost of the particular project. In this way, I think you get the most value for your money, because you get the enthusiasm of a person with a particular skill or interest.

The next time you move in a different area—we can't be experts in all areas—then you can call on a specialist in that field. I prefer that to setting up a research wing which may become somewhat self-centred and become involved in make-work projects that really have little or no social value.

**Mr. V. M. Singer (Downsview):** What kind of a research project was it?

**Hon. Mr. Clement:** That was a research project dealing with fair business practices and I commissioned that research project in December last—I think it was in December. I have already had the report from Professor Neilson, of York University, the researcher.



**Mr. Singer:** What is he, in fact?

**Hon. Mr. Clement:** He is a professor at law at York University. He is leaving, or has left within days of today, on a research project—nothing to do with this government—in Australia. He is coming back in January to be a special guest lecturer at the University of British Columbia for three or four months next spring and then returning to York. He is a consumer critic; he is a very intelligent, dedicated young man, very interested in the consumer field.

**Mr. Singer:** What sort of contract would you have entered into with him in relation to time and money?

**Hon. Mr. Clement:** We entered into a contract with him to do a study into fair business practices and comparable legislation to see if there are other jurisdictions with legislation such as this. He travelled to Washington, Chicago, New York, Winnipeg, and came in with a report—I don't know how many pages in length, possibly 120 pages in length—with recommendations and also drafted the proposed bill, which we are now looking at.

Believe me, I feel it was tremendous. It was a tremendously valuable thing and good value to us.

**Mr. Singer:** You said you contracted with him in advance. What kind of time did you give him? What kind of compensation?

**Mr. J. K. Young (Deputy Minister):** It was about \$10,000. And this includes, Mr. Singer, a draft bill; so that you can appreciate there was a lot of work done for that amount of money.

**Hon. Mr. Clement:** This was in an area of particular interest to this man, and I think you get greater value in that type of thing than staffing it with permanent people who may become jaded or interested in certain areas.

**Mr. Singer:** No, I am not quarrelling with that kind of selection. It sounds sensible to me. The next query I have is, is his report going to be made available to us, or is that a confidential government document?

**Mr. Chairman:** Is this in this item?

**Hon. Mr. Clement:** No, it is not in this item, but I think it is of sufficient interest that maybe we can touch on it.

**Mr. Singer:** No, the minister said \$20,000 was hidden somewhere in here.

**Hon. Mr. Clement:** This is for the future, but I wanted to give an example of how we have utilized this. I hope to be able to introduce legislation, probably this autumn, reflecting Professor Neilson's recommendations, or the bulk of them.

As far as making it available to the public, I haven't considered whether there is any value in that or not. There is nothing to hide in it particularly, it may be of some value.

**Mr. Singer:** In making it available to the public, I don't mean that you should print 10,000 copies. I would think if you tabled a copy in the Legislature and made it available to the members of this committee, made a couple of copies available to the press, that would be sufficient. But if you want, as I think you do, the kind of co-operation you have been talking about from all members of the House and all sides of the House, I think it would be helpful if we could see this kind of a study in advance of the legislation, or at the same time as the legislation, to give us ample time to consider it in relation to what is proposed.

**Hon. Mr. Clement:** That is a reasonable proposition. I would consider that.

**Mr. Chairman:** Mr. Lawlor.

**Mr. P. D. Lawlor (Lakeshore):** I wonder to what extent the minister has looked into the field of advertising, as to its possibility as a source of tax revenue. Do you recall that the Smith committee did think this would be a legitimate area, which up to that time hadn't been particularly sales taxed? They were thinking, for instance, the security transfer tax could be brought over from that particular kind of tax into the sales field—as would commissions of various kinds. And that is a road on which you probably could finance—say you taxed—

**Hon. Mr. Clement:** Mr. Lawlor, is this public advertising you mean, not advertising that the ministry would be doing? You're talking about—

**Mr. Lawlor:** No, public advertising.

**Hon. Mr. Clement:** Public advertising, okay!

**Mr. Chairman:** Is this confined to this item, Mr. Lawlor?

**Mr. Lawlor:** Yes, I find it pertinent.

**Mr. Singer:** You are talking about a taxing measure!

**Mr. Lawlor:** Well, with respect to rewarding some John over here on one side, and on the other of finding where you are, there is an area of really legitimate concern within the terms of research and within the terms of some kind of policy, by some government in the western world with respect to all the monotonous, ongoing—really, if you taxed them on a sliding scale—

**Mr. Singer:** No, on a point of order, Mr. Chairman. Surely we are not going to start haranguing in this committee on raises in the sales tax?

**Mr. Chairman:** No, Mr. Singer, we are not. We are confining the discussion to item 1 of vote 1301.

**Mr. Lawlor:** I am just trying to tell a joke, Singer! With your sense of humour, you think I was talking about taxes because I used the word "tax." I give up!

**Mr. G. Nixon (Dovercourt):** It doesn't sound like it.

**Mr. Singer:** You have no sense of humour.

**Mr. H. C. Parrott (Oxford):** We know you.

**Mr. G. Nixon:** You are against it.

**Mr. Deacon:** Mr. Chairman?

**Mr. Chairman:** Yes, Mr. Deacon?

**Mr. Deacon:** On this matter of lowering the cost of such a programme, or having offsetting revenue of some sort—and I am not talking about taxes, I am talking about licensing—I wonder if the minister would think in terms of these self-regulating organizations eventually having a licence structure that would be sufficient to return some form of fees to the department to cover the cost of whatever his ministry is contributing in the way of grants to Information Please. In other words, the more complaints we have, the higher those fees are going to have to be. Industry should have the incentive of knowing that if there were fewer complaints, the cost of operating storefront and information centres would be lower and possibly the fees would not be jacked up.

I think the public as a whole should not have to bear the burden of providing a service to protect the consumer from those in business. We should find a way, through these licence fees, to offset the cost of these programmes. I hope we have sufficient revenues from the securities business to cover the cost of operating the Ontario Securities

Commission. I think that's a legitimate business charge.

**Hon. Mr. Clement:** What you speak of is the ultimate and would be very desirable—there is no question about it. When we get further into the estimates and other areas of activity, hopefully I shall be able to demonstrate that this can cause great economic problems in certain areas.

I will just touch on it now by mentioning boiler and pressure vessel fees. We have had so many briefs from the industry, saying the fees they are paying are right up to here, and if there is any increase in those fees they are going to be put out of a competitive position on the world markets. In that particular programme, we collect \$650,000 a year in fees and the programme costs about \$1 million.

**Mr. Deacon:** Well, I was going to mention something—

**Hon. Mr. Clement:** I won't go into it now, but there is a distinction between that type of activity and real estate activity.

**Mr. Deacon:** I have some ideas to put forward on that particular industry, as to how we might reduce our costs there and still protect the public.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** Yes, I'm getting confused. We have the storefront programme, an information programme and an updating of literature programme. Do we really need all of them? I presume the information type of programme would be somewhat divided between the storefront, information type of operation and the upgrading of literature if you want to get it out. Why do we have three items?

**Mr. Deacon:** We have more than that.

**Mrs. Campbell:** Well, those are the ones I can remember.

**Mr. Deacon:** Ministry courses are \$100,000; updating literature, \$100,000; consumer education, \$50,000; research, \$20,000—

**Mrs. Campbell:** Well, I am all for the research programme if it is going to be of assistance.

**Hon. Mr. Clement:** Mrs. Campbell, we are talking in terms of information services. We must co-ordinate the information of value to the consumer that is available from the various facets of the ministry. We don't have an information officer for the ministry at the present time.

Many of the pamphlets, I am sorry to say, are very outdated. I have had a pamphlet sent to me that was handed out recently because it was the only one in existence. It described a programme that has been in existence only three years—and the pamphlet was dated, 1969, I think. That just isn't good enough.

**Mrs. Campbell:** No.

**Hon. Mr. Clement:** The pamphlet bore the old name of the ministry of about three or four years ago.

We want to co-ordinate the activities of the ministry regarding the information that's available to the consumer; we want someone to do that co-ordinating and then to have that information available to the public.

**Mrs. Campbell:** Well, does the fact that you still had some left over from that time perhaps indicate that there wasn't much demand for that particular pamphlet?

**Hon. Mr. Clement:** No. I don't know where this came from. A gentleman from the east end of Toronto had one handed to him, and he couldn't recall where he got it. I don't know if he got it from an agency or a friend. He said he had been in someone's office and had picked this up. Apparently they had a half a dozen copies there.

**Mr. Chairman:** Maybe a dentist's office.

**Hon. Mr. Clement:** Yes, maybe a dentist's office. He picked it up and took it away, and he was interested enough to drop in one day last fall and draw this to my attention. I thought that was a kind of a deplorable thing.

**Mr. Chairman:** Any further questions?

**Mr. Havrot:** How much of an increase over last year?

**Mr. Chairman:** What was the question, please?

**Mr. Havrot:** Under services, we have \$309,700. How much of an increase is that over last year?

**Hon. Mr. Clement:** I am sorry, Mr. Havrot—

**Mr. Havrot:** Under services, \$309,700 is budgeted; that is an additional \$250,000.

**Hon. Mr. Clement:** That is half of the \$500,000.

**Mr. Havrot:** Yes, but we were providing these services last year. What is the reason for the increase?

**Hon. Mr. Clement:** The \$250,000 that you relate to is half of the \$500,000 we have been discussing. We were talking of the storefront operation, of \$205,000.

**Mr. Havrot:** Of course, yes.

**Hon. Mr. Clement:** The remainder is made up of three sums, namely, \$100,000 for updating of pamphlet information, \$50,000 for consumer education movies, and \$100,000 for ministry-produced courses for consumer education. It is shown in that item as \$250,000.

**Mr. Chairman:** Any further questions on item 1? Shall item 1 carry? Carried!

Item 2?

**Mr. Deacon:** I want to ask the minister what the salaries and wages were in the previous year for item 2? And what were the services for the previous year? There's a 90 per cent increase over last year altogether. What's the reason for the huge increase?

**Hon. Mr. Clement:** The increase over last year is—let me see if I can get a total—

**Mrs. Campbell:** We don't want a total.

**Hon. Mr. Clement:** It is \$146,000.

**Mr. Deacon:** In salaries and wages?

**Hon. Mr. Clement:** For salary increases and salary revisions.

**Mr. Deacon:** So they are up \$54,000 over last year.

**Hon. Mr. Clement:** Pardon?

**Mr. Deacon:** Salaries are up roughly \$54,000 over last year, is that correct?

**Hon. Mr. Clement:** No, they are up \$146,600.

**Mr. Deacon:** Oh, \$146,600. What's the reason for that?

**Mrs. Campbell:** Particularly when you don't have an assistant deputy.

**Mr. Deacon:** We went from \$128,000 in 1971 to \$169,000 last year to \$315,000 this year.

**Hon. Mr. Clement:** There were items in last year's budget which were not included and were approved subsequently. An assistant deputy minister's salary was not included last



year; that is \$33,000. The salary of a systems co-ordinator was not included last year—\$30,000—

**Mr. Deacon:** A systems co-ordinator?

**Hon. Mr. Clement:** Yes—\$30,000.

**Mrs. Campbell:** At \$30,000?

**Mr. Deacon:** What does he do?

**Hon. Mr. Clement:** Pardon?

**Mr. Deacon:** Why did it suddenly require these jobs? We were getting along without an assistant deputy minister, and now we have provided for not only an assistant deputy minister but also a systems co-ordinator.

**Mr. J. K. Young:** Mr. Chairman, Mr. Minister, our ministry has no systems analysis group as is customary in most ministries in the government. We have one systems co-ordinator, which is a new office. The money for us to perform systems work will be found in each of the programmes. We have this one chap and he is a—

**Mrs. Campbell:** How can he get \$30,000 out of each programme?

**Mr. J. K. Young:** Pardon me?

**Mr. Deacon:** You have \$30,000 in this one, you just told us. How are you going to pull it out of the other programmes?

**Mr. J. K. Young:** Well, \$30,000 for a first-class systems co-ordinator, plus the assistance he needs in order to function, I suggest is not an unusual sum of money.

**Mr. A. W. Downer (Dufferin-Simcoe):** What is he going to do?

**Mrs. Campbell:** What is he going to do?

**Mr. J. K. Young:** Each of the programmes in turn, which you will be going through gentlemen, will have sums of money in them for systems work, for studies, procedures and systems. And this chap in the assistant deputy minister's office will co-ordinate this work. If a programme manager wishes a study to be made he will go to the systems co-ordinator who will draw up terms of reference—

**Mrs. Campbell:** Oh no, no!

**Mr. Downer:** Will he be twice as valuable to you as your minister?

**Mr. J. K. Young:** I can't answer that.

**Mr. Singer:** Give MacBeth a sharp pencil and bring the budget back next year.

**An hon. member:** Right!

**Mr. Deacon:** Is this all part of this evaluation of programmes that is required under the PBS, or whatever they call that—

**Mr. J. K. Young:** Well, sir, in any organization there's always examination of procedures going on. We have in our ministry several sophisticated computer programmes, one of which is a personal property registration system, another is our Registrar General system—there is one in the companies' branch in conjunction with revenue. These are highly sophisticated computer systems. You have to have people who are capable of analyzing them and giving you advice, and that's what this man does.

**Mrs. Campbell:** Mr. Chairman, why wouldn't you have a sophisticated person running your programme operation in the computer service, rather than in each department? Surely it isn't necessary for each department to get into this sort of thing. Are you running the municipal simulator programme? Are you continuing that?

**Mr. J. K. Young:** We don't run the municipal simulator programme; this is done in another ministry.

**Mrs. Campbell:** Well, whoever does; but it is being done.

**Mr. J. K. Young:** It's being done elsewhere. I can't comment on that programme.

**Mrs. Campbell:** But why? To me this really is a pyramiding, if you want to call it that. We don't want it in business; I don't know why we want it in government. I just can't buy this kind of thing.

**Mr. J. K. Young:** Maybe it would help if I gave you an example. In the Registrar General's division, we have a system which was conceived in 1946. It has what's known as first generation computing equipment. The people who designed that equipment are all dead. You can't get parts for it, it is worn out. We need a new system there. This man will go into that area—

**Mrs. Campbell:** Oh, it will be a man, will it? It is a man, or it will be a man?

**Mr. J. K. Young:** He is a man. He's on our staff, yes. He could be a woman.

**Mrs. Campbell:** That's an interesting statement!

**Mr. Chairman:** You can do anything. With the right systems, you can do anything.

**Mr. J. K. Young:** Does that patch that up?

But to carry out this example in order that you might perhaps understand it a little bit better, he will go over to the Registrar General's area, he will sit down with the Registrar General and he will draw up terms of reference for a systems study, in order to have a modern, up-to-date system in that area. This is of very great importance to us, because the system we have is worn out.

We must have this calibre of person who is able to go into that area and find out what is needed to be done in order to rectify this situation. For instance, they handle, as you know, millions of small documents known as vital statistics. This kind of operation lends itself to a sophisticated automated operation.

That is one area, and we have a number of others that the systems co-ordinator will work in. That is one example which might help you to understand why this guy is here.

**Mrs. Campbell:** I am afraid it is probably a bad example, from my point of view. From your explanation, I would have thought that you could contract that service, in order to get somebody in to renew the system, without keeping the person on staff for the rest of eternity as part of the—

**An hon. member:** Is this a continuing programme?

**An hon. member:** Pyramiding!

**Mr. J. K. Young:** No, when he has finished that job—

**Mrs. Campbell:** This becomes a complement of your—

**Mr. J. K. Young:** This is a full-time job in our ministry.

**Mr. Deacon:** Why?

**Mr. J. K. Young:** Because the nature of the work is such that it occupies a man—and we could use more.

**Mrs. Campbell:** You will probably ask for them and get them.

**Mr. J. K. Young:** This man is making his salary many times over, by enabling us to operate more efficiently. If he is not doing that, he is not worth his money.

**Mrs. Campbell:** Do you need to have an assistant deputy when you functioned so successfully without one last year?

**Mr. J. K. Young:** An assistant deputy minister is not necessarily a person who is an expert in the computer field, although he could be.

**Mrs. Campbell:** No, I'm not suggesting he would be. But when you get this person in, who is an expert and is doing all this work, what is your assistant deputy doing when you get him? I take it his salary is in here for the full year.

**Mr. J. K. Young:** I was the assistant deputy minister, and as assistant deputy minister—

**Mrs. Campbell:** I know.

**Mr. J. K. Young:** —I had a number of people working for me. I had the property rights division, for instance, which has 800 people and has 50 offices throughout Ontario, as assistant deputy minister.

What was the other division? I had the programme support division, of course, which consists of personnel, finance, administration. I had the programme analysis co-ordinator. I had the director of legal services, I had the companies branch and I had the systems co-ordinator working for me.

I assure you that it was a rather challenging job. There was no way, and I say this in honesty, there was no way that I could do the job the systems co-ordinator is doing.

**Mrs. Campbell:** Yes, but you didn't have a deputy. Now you're the deputy.

**Mr. J. K. Young:** Right!

**Mrs. Campbell:** I see, and you've got this man to—

**Hon. Mr. Clement:** We had a deputy, then, Mrs. Campbell; there was a deputy minister at that time, too. You see, there was a deputy minister and an assistant deputy.

**Mrs. Campbell:** Oh, I see; we just lost the deputy in October, or something.

**Hon. Mr. Clement:** Yes, and Mr. Young was elevated to be the deputy from the assistant deputy's job that he had.

**Mrs. Campbell:** I see. Well, what happened to the salaries that were left over as a result of the exchange of the one salary?

**Hon. Mr. Clement:** Yes, what happened to that?

**Mrs. Campbell:** When do you anticipate that you are going to get the assistant deputy?

**Mr. J. K. Young:** I think that you are getting into a pretty broad problem here. Maybe I could put it in context.



This ministry is one year old. It was formed on April 1, 1972, and it grew out of the old Department of Financial and Commercial Affairs, which had four of the present divisions that we presently have. In addition to that, and grafted on to the new ministry, were seven other divisions which dwarfed—I think we started with 400 and we are now about 5,000 people.

**Mrs. Campbell:** That's the whole problem.

**Mr. J. K. Young:** No, these are not new people, these are divisions that came from elsewhere into this ministry. We didn't hire any new people for this activity.

Now we were charged with the responsibility of organizing this new ministry, and we started one year ago. It has taken us one year of study and analysis in order to set this thing up. We think we are within sight of being able to recommend to Management Board the final structure of this matter—what we conceive to be what we need in order to carry it on. I'm not in a position to say one way or the other, but I can say that this organization may, or may not, have an assistant deputy minister. There may be a deputy minister with an office which would be different, but we would have no more people than we have now. We expect in the course of the next month to be able to come up with our final organization to see us through till we have to reorganize again in five years' or 10 years' time or whatever. I am sure you are familiar with these processes; they go on in any government.

**Hon. Mr. Clement:** Mrs. Campbell, they moved certain responsibilities.

**Mrs. Campbell:** Most governments cut down a bit; this government goes up.

**Hon. Mr. Clement:** No, what they did, Mrs. Campbell, is this: For example, we say there are over 5,000 people really employed by the ministry. We got 3,000 of those as a transfer over to us of the two liquor boards. We had transferred over to us property rights, which were formerly under the supervision of the Ministry of the Attorney General.

**Mrs. Campbell:** But they don't show a drop, either.

**Hon. Mr. Clement:** We had technical standards come over from Labour. We have grown like Topsy over there.

I don't mean to be facetious but if, for example, in the wisdom of those who make the decisions they gave credence to Mr. Renwick's submission that maybe Landlord and

Tenant should come over, then our complement would have to increase by that number of people, and hopefully the complement of the other industry would be reduced.

**Mrs. Campbell:** But it isn't; that is the point.

What I am asking is, is it customary to put in an allocation of salary for a position which is not now filled, which one doesn't know will be filled; and to put it in for a whole year? I am assuming that you have put it in for a whole year, although you obviously won't have that position filled for a whole year. Surely this inflates these kinds of estimates.

**Hon. Mr. Clement:** Mrs. Campbell, we prepared for this budget last October, or started in August, even before these changes were made. Management Board would not under any circumstances give us the amount that we show there for an assistant deputy minister if we didn't have him for the full 12 months. The fact of the matter is, if we hire one on the first of next month, we can't have him for 12 months. Accordingly it would be reduced on a pro rata basis. Management Board would not give us that money on a 12-month basis if we used him for 11 months or had one for 11 or six months; it would just be reduced. But we had to put it in at the time the budget was prepared.

**Mrs. Campbell:** I can understand that, but it does seem to me that it would be far easier to follow if it were realistic now. I would think surely this could be reduced as an item at this time. Would the minister give us the figure which he thinks is a realistic figure for the assistant deputy's salary and wages at this time, and what reduction could be made in the \$200,500 estimate?

**Hon. Mr. Clement:** An assistant deputy minister's category, I believe, is \$33,000. If he worked for six months, then the amount that would be allocated to us, to the ministry by Management Board, would be one-half of that sum.

**Mr. Deacon:** We know that there are two months he will not be working.

**Hon. Mr. Clement:** Right! We are not going to get \$33,000 for that particular individual for this fiscal year, because Management Board just won't give it to us, nor should it.

**Mrs. Campbell:** As I understood it, you are not even clear whether you will get it and you are not even sure when. Surely to help those of us who are accustomed to a little more accurate budgeting—not estimating—we



could get some figures here that would be reasonable for us to handle, showing what you really think a reasonable prognostication would be.

The thing that bothers me is, if you leave this in now and then you find that you don't use it, you will come back next year with an increased amount. I am sure of that right now; it will be up next year. And this will become a hidden item. That, I think, is unfair to us in trying to follow.

I am new at this in this area, Mr. Chairman.

Hon. Mr. Clement: So am I.

Mrs. Campbell: I don't want to labour it, but from my point of view this kind of item encourages inflating of estimates, or I would think it does. I would like to see it more accurately reflected here as to what you really think you are going to need.

Hon. Mr. Clement: At the time the estimates were prepared, this was a sum that we had to include on the off-chance that we had him for the full 12 months. At the time the initial estimates were prepared, these changes hadn't even been brought about. Under the directive of Management Board, they will not allow us to proceed with any argument before them on the basis of: "Well, we didn't use that \$33,000 for an assistant deputy minister's salary, can we utilize that in another area?" We cannot shift that within the ministry; we just can't do it.

Mrs. Campbell: All I have been fighting for, Mr. Chairman, is that you drop that estimate so we can have it realistically before us as a record when we come to review the same budget in another year. That is all I am asking.

Hon. Mr. Clement: If we deleted that right now and didn't hire an assistant deputy minister, that would be the end of it. If we hired one two months from now, then we would have to go before Management Board, and in turn in supplementary estimates next autumn, have approval for that expenditure; and we might well be criticized. It might be said: "If you anticipated this individual might start with you, why in blazes didn't you show it in your preliminary estimates before the estimates committee last spring?"

Mrs. Campbell: I won't belabour it, Mr. Chairman, but my understanding is, and from what has been said here, you do not anticipate hiring him at least in the next two months?

Mr. J. Riddell (Huron): On that point, Mr. Chairman, if you have been able to manage without him for two months, and there is a possibility that you can manage without him for another two months, what is the possibility of being able to manage without him entirely?

Hon. Mr. Clement: We have been limping along. We haven't had the individual available to us to fill the bill, Mr. Riddell. I would not want anything construed here tonight as coming from me that we are not hiring one within the next two months. We are looking very hard at obtaining one that meets our requirements as soon as we possibly can. We have been limping along and it has not been easy. It has cast a pretty heavy burden on certain individuals in my ministry. The complement in the minister's and deputy minister's office is reduced this year from 14 to 11.

Mr. Deacon: There is a \$63,000 increase and \$100,000 has been looked after. Now you are talking about an assistant deputy minister. Where is the rest of the \$83,600 increase going?

Mrs. Campbell: He says they have reduced the complement and yet they are up.

Hon. Mr. Clement: The rest of the \$83,600?

Mr. Deacon: There is \$83,600. Some of it is for increased salaries. But what is the reason for the other big boost in that amount?

Hon. Mr. Clement: There is a \$30,000 internal audit programme and \$15,000 for research.

Mr. Deacon: What sort of research is that? You have research above, too. Is that \$15,000 additional over last year?

Hon. Mr. Clement: Yes. Last year we had \$5,000, this year it is \$20,000.

Mr. Deacon: This year you are \$20,000.

Hon. Mr. Clement: The salary revisions and operational increase is \$38,600.

Mr. Deacon: There is still some missing here.

Hon. Mr. Clement: No, that should add up.

Mr. Deacon: Yes, it is okay.

Mr. Chairman: Any further questions? Is item 2 carried?

**Mr. Deacon:** Are services pretty well the same as last year?

**Hon. Mr. Clement:** Under the COGP mandate we have to do internal auditing at the level now.

**Mr. Deacon:** I am not concerned about that. I understand that, because in public accounts we have been discussing that. What about the \$83,330 in services? What are the comparable figures for 1972?

**Hon. Mr. Clement:** Those are these last three items again, I believe.

**Mr. Deacon:** You told us \$146,600 was the increase in salaries and wages.

**Hon. Mr. Clement:** No, pardon me, \$146,600 is the total, I am sorry. It is made up, if you would like to know, from these figures: assistant deputy minister—

**Mr. Deacon:** Yes, I see that.

**Hon. Mr. Clement:** Okay? All right?

**Mr. Chairman:** Any further questions on that?

Item 2 agreed to.

**Mr. Chairman:** Item 3.

**Mr. Deacon:** There is an increase there in existing salaries? There is a 15 per cent increase over last year in administrative services. Is that where the amount is?

**Hon. Mr. Clement:** There is one less person.

**Mr. Deacon:** One less person, but we have gone up \$45,000 in total.

**Mrs. Campbell:** Well, there were several less people in the other items, too, and they have gone up.

**Hon. Mr. Clement:** The increase, Mr. Deacon, is \$44,800.

**Mr. Deacon:** Right. Is that in salaries and wages?

**Hon. Mr. Clement:** Salary increases, \$27,700; employees' benefits, \$4,300; operational expenses, \$12,800, totalling \$44,800.

**Mr. Deacon:** Right. Thank you.

**Hon. Mr. Clement:** That \$12,800, I am advised, is postage for the whole ministry. The \$12,800 is charged to the assistant deputy minister's office.

**Mr. Chairman:** Any questions on item 3?

**Mr. Carruthers:** How do transportation and communications costs compare to last year?

**Mr. E. Johnston** (Programme Support Division): It's up about \$12,000.

**Mr. Carruthers:** Twelve thousand dollars?

**Hon. Mr. Clement:** It may be of some assistance to the committee—last year, between the minister's office and the deputy minister's office, there were a total of 22 employees, 14 to the minister's office and eight to the assistant deputy minister's office. This year it is 11 and 11; the total is exactly the same. The complement has remained constant.

**Mr. Chairman:** Will item 3 carry?

Item 3 agreed to.

**Mr. Deacon:** One of the things I might point out in these items we are coming to, is that I think the next one's the only one that jibes with last year.

**Mr. Chairman:** Item 4?

**Mr. Deacon:** Yes, I was wondering—I just want to point out that last year the Ministry of Consumer and Commercial Relations gave us sheets which showed a financial services figure quite different from the one that actually shows on this book for last year.

**Hon. Mr. Clement:** I'm sorry, would you say that again, I didn't catch that?

**Mr. Deacon:** Yes. Last year, at the time of the estimates, you gave us a breakdown of the various programmes and the objectives, but the figures don't jibe with the figures shown here—that were presented last year in some of these items. The only one that does jibe is the one to do with personnel services. What is the reason for the discrepancy?

**Hon. Mr. Clement:** I am advised that administration and financial were both together last year and they are broken down now.

**Mr. Deacon:** Well, not even the main office jibes. The figure we got last year was \$243,400, in the estimates, and this book shows it was \$205,500. The financial and administrative together was \$796,600, given us last year; if you total it to this year, I think it's just a few hundred dollars difference but it's still a few hundred dollars out. I find that none of these things seems to

jibe and I just wanted to know if there was some accounting shift or some shift in method.

**Mr. J. K. Young:** We have our financial officer here, Mr. Deacon. He would be glad to go to any detail you want.

**Mr. Deacon:** I will send this to him and ask him and maybe he could report to committee tomorrow.

**Mr. J. K. Young:** Would that be satisfactory, sir?

**Mr. Chairman:** Any further questions, then, on item 4?

**Mr. Deacon:** There was a 50 per cent increase in the financial services over two years ago. What was the major jump? It's not up much this year.

**Mr. E. Johnston:** The ministry was formed last year, and I think there were about 13 on the staff before I came. Now we have 49. We had 51 last year, now we are reduced to 49 this year. So this is—

**Mr. Deacon:** So there is a difference in the size of the department?

**Mr. E. Johnston:** Oh, yes.

**Mr. J. K. Young:** One of the problems here, Mr. Deacon, was that a number of these financial services people, for instance, were spread over other ministries. When we got these other activities, we got a certain number of people from other ministries, and it made the accounting extremely complicated. But we appreciate your problem and if there are little inconsistencies, we will explain them to you in as much detail as you wish.

**Mr. Chairman:** Will item 4 carry?

**Mr. Renwick:** Mr. Chairman, just one question before you pass item 4: Has this fictional amount of rent been established—that your ministry is to be charged by the Ministry of Government Services?

**Mr. E. Johnston:** Not yet.

**Mr. Renwick:** Not as yet?

**Mr. E. Johnston:** They are working on it now.

**Mr. Deacon:** Would that be set in your case, if the actual rent is being paid by the government to the private owner?

**Mr. E. Johnston:** Yes, this is what I understand, this will be set.

**Hon. Mr. Clement:** Our ministry has no buildings or anything—we are tenants anywhere we occupy.

**Mr. Chairman:** Will item 4 carry?

Item 4 agreed to.

**Mr. Chairman:** Item 5. Questions on item 5.

**Mr. Havrot:** A \$61,300 increase—what does the increase basically involve?

**Hon. Mr. Clement:** Of the increase of \$61,300, Mr. Havrot, salary increases are \$47,000, operational increases, \$1,300, staff development officer, \$13,000.

**Mr. Havrot:** Is there an increase in staff in that particular—

**Hon. Mr. Clement:** Yes, from 16 to 17 and now 18.

**Mr. E. Johnston:** Eighteen—it went up one.

**Mr. Deacon:** That's a big increase—\$47,000—that's a 35 per cent increase.

**Mr. J. K. Young:** I am sorry, I was talking—

**Mr. Deacon:** There was about a 35 per cent increase there—40 per cent increase in salaries and wages.

**Mr. Havrot:** Yes, there are two additional employees.

**Mr. Deacon:** For two additional employees.

**Mr. Havrot:** Plus regular—

**Hon. Mr. Clement:** I queried that the other day; that's a good point, Mr. Deacon.

**Mr. Deacon:** Can you get the answer then?

**Hon. Mr. Clement:** Yes.

**Mr. E. Johnston:** The major increase, in the salary item, is reclassification of staff in the personnel branch, and the overall salary increases for the government employees that came through last year—the large increases.

**Mr. Deacon:** Is that because of the larger department? Does that make for the reclassification? What causes the reclassification?

**Mr. E. Johnston:** Yes, the positions were reclassified, but some of the staff came in from other ministries and as their duties were increased we reclassified them.



**Mr. Havrot:** May I ask a question, Mr. Chairman? When you reclassify these people, do you give them examinations, or do you test them on their ability to do the job?

**Hon. Mr. Clement:** Maybe Mr. Williams will answer that. Our personnel officer, Mr. Williams, can clarify that for you. Can you not hear? Perhaps you better come up to a microphone next to Mr. Lawlor here, if you will, Mr. Williams.

**Mr. P. C. Williams (Personnel Branch):** Mr. Chairman, Mr. Minister, members of the committee. The question was, are people tested before they are promoted? Are they observed on the job before they are promoted? I believe that was the question.

Jobs are evaluated on the basis of difficulty, and certain prices are attached to those various jobs. Individuals who are assigned to those jobs are then matched against staffing standards for those jobs. It is determined whether the individual has the qualifications in order to perform the job by looking at his basic paper qualifications, and also on the basis of his past performance, and on the basis of the assessment of the person making that decision, as to whether he can perform that job.

So in this instance, where there are re-classifications involved, an individual who receives the higher salary is measured against several tests, not formal written tests as such, but several tests such as staffing standards, job evaluation standards, and his ability on previous jobs. Those are the criteria.

**Mr. Havrot:** It is not based just on seniority?

**Mr. Williams:** No, sir.

**Mr. Havrot:** Seniority doesn't enter into the picture?

**Mr. Williams:** No, it is primarily on the ability of the individual.

**Mr. Chairman:** Any further questions on item 5?

**Mr. Lawlor:** Just one more question. Is there someone here with respect to the seconding of lawyers in your department from the Justice department?

**Hon. Mr. Clement:** I have the legal counsel here, Mr. Ciemiega.

**Mr. J. K. Young:** Perhaps if you would give us a question we could—

**Hon. Mr. Clement:** What is your question, Mr. Lawlor?

**Mr. Lawlor:** The question is whether it is within the sum of money here—the amount that is returnable to the Attorney General or the Minister of Justice for the lawyers that have all been brought into your department and you have to pay for them.

**Mr. E. Johnston:** The legal staff in the ministry have been transferred to the Attorney General for salaries. They are paid a salary, but they are charging us back under services. So you will find in going through the votes that it is taken out of salaries and put into services.

**Mr. Lawlor:** And is that in this vote?

**Mr. E. Johnston:** No, not in this vote; in each branch where the legal officers are part of the complement. It is not in the salaries, it's in the services, they are going to charge us back for their salaries.

**Mr. Lawlor:** In each—

**Mr. E. Johnston:** Well, there are companies, insurance—

**Mr. Lawlor:** —branch?

**Mr. E. Johnston:** Yes, the companies and insurance and the registrar general.

**Mrs. Campbell:** Could I ask—when did this transfer take effect?

**Mr. E. Johnston:** April 1.

**Mrs. Campbell:** How is that reflected in those various categories? You don't show a drop in your salaries and wages by reason of it, and they weren't given to us as an explanation of the increase in services.

**Mr. E. Johnston:** Well, in what you have covered so far, there is nothing here, there are no legal people in this one.

**Mrs. Campbell:** I see. Thank you. When do we start with it?

**Mr. E. Johnston:** Well, I guess the next one will be companies. The companies branch is the first one.

**Mr. Chairman:** All right, that takes us to vote 1302, item 1.

**Hon. Mr. Clement:** No, Securities Commission—Mr. Bray.

Vote 1301 agreed to.

On vote 1302:

**Mr. Deacon:** Mr. Chairman, I was wondering in this item if we could get an idea of the revenue that comes into the Securities Commission.

**Mr. E. Johnston:** The revenue in the Securities Commission is \$910,000. That's the estimate for next year.

**Mr. Deacon:** Nine hundred and ten thousand dollars.

**Mr. E. Johnston:** Estimated for this coming year. The current year is \$762,700.

**Mr. Deacon:** I had thought that our revenues were much more in balance with the expenditures.

**Hon. Mr. Clement:** Pardon?

**Mr. Deacon:** I had been given the impression from previous discussion of the estimates of this department that the revenues were much closer to the actual expenditures. I am disappointed to see that we don't have sufficient revenues from the various fees we get to cover the operation of the securities business—especially now that we are dropping the securities transfer tax.

**Hon. Mr. Clement:** I have the vice-chairman of the Securities Commission here in the person of Mr. Bray, and I would invite him to make comment on that, if you would, Mr. Bray.

**Mr. H. S. Bray** (Ontario Securities Commission): Mr. Minister, members of the committee, the revenues have not for some period of time—as a matter of fact since about 1964—approximated the amount of money spent. I hadn't realized that there was any question of trying to balance revenues against expenditures.

This is largely an enforcement body and its largest expenditures are on the enforcement side. I haven't really much more comment than that.

**Mrs. Campbell:** Mr. Chairman, it is a strange thing, I can remember coming before a committee of this government with reference to municipal charges for services. We were heavily criticized until it was discovered by the counsel for the committee that the legislation didn't permit us to make our revenues more comparable with our expenditures. That was a little embarrassing, I think, to counsel. At the same time there was heavy criticism of us because we were not making this comparison and making it pretty com-

parable, yet here this doesn't apply. Why is the philosophy always so different?

**Mr. Chairman:** I am wondering if we could leave now for the vote.

**Hon. Mr. Clement:** We have been called for a vote. I wonder if we can come back and pick it right up from there, Mrs. Campbell?

**Mrs. Campbell:** Except that my problem is I think I am going to be speaking on an item which will likely come right after the vote and I won't get back. And I do have a problem under financial institutions.

**Mr. Bray:** Mrs. Campbell, I would be pleased to break this down separately, if that is all right.

**Mrs. Campbell:** It wasn't a matter of breaking it down. I am asking why the government is always criticizing municipal governments for not doing the things the way they should be done, and this government is not doing them the way it thinks municipal government should do them.

**Mr. Bray:** What you have here is a judge, a police force, plus a licensing bureau.

**Mrs. Campbell:** I know all this. I'm familiar with it.

The committee recessed at 9:33 o'clock, p.m., for a vote in the House, and reconvened at 9:48 p.m.

**Mr. J. K. Young:** The estimates call for roughly \$1.5 million for securities, \$1.3 million for companies, a total of \$2.8 million; financial institutions, \$1.7 million, that's \$4.5 million, I guess, is it? Or is it \$5.5 million?

**Mrs. Campbell:** I haven't added it up yet.

**Mr. J. K. Young:** All right. Balanced against that you have the \$900,000 revenue you were talking about, something of that order.

**Mr. Bray:** I think that is right, approximately.

**Mr. J. K. Young:** You have an additional \$800,000 or \$900,000 revenue from the insurance branch.

**Mrs. Campbell:** How much?

**Mr. J. K. Young:** About \$800,000 or \$900,000. I'm not absolutely sure of my figures here. I'm just trying to give you a concept of it.

**Mrs. Campbell:** Yes.

**Mr. J. K. Young:** Say that's \$2 million, and then the companies branch raises in

revenue something like \$3.5 million to \$4 million, something of that order.

So the amount of expenditures is around \$5.5 million and the revenue is over \$6 million—and this is borne by the business community—so that there is this balance between expenditures and revenues and it is indeed borne by the business community.

**Mrs. Campbell:** I see. So that what you lose on the tomatoes you make up on the coconuts. Is that right?

**Mr. Bray:** Can I speak a little further to that? We are charging the highest fees of any jurisdiction in Canada individually to brokers or salesmen, on prospectus filings, the filing fee plus the percentage. Something in the order of between 60 and 70 per cent of the financial business in Canada is done here. I can't give you a figure but perhaps 65 to 70 per cent could not be too high.

So, if you are talking from the point of view of competition and balance, for instance on a prospectus filing, over a certain size filing they pay us an added fee of a percentage of the issue sold in Ontario. So from the point of view of a direct burden upon the people using the system I think we're probably hitting them pretty substantially.

In addition to that, I think we insist on the highest standard, certainly in Canada, on the question of record keeping, insurance, the contingency trust funds which the industry is required to keep either as a member of the TSE or the IDA—the Toronto Stock Exchange and the Investment Dealers Association—plus the contingency trust funds which the other dealers must contribute toward. We are really imposing a pretty substantial burden, coupled with all the other agencies of government they must satisfy and so on.

I suppose security transfer tax in one way did make up for it in years gone by, but we have that substantial enforcement side, which is really the drain when you try to balance out our licensing. Our prospectus side makes a profit if you were to balance out, whereas the enforcement side gives us the deficit.

**Mrs. Campbell:** I think that's what part of the problem is. It seems to me the enforcement side should be really self-sustaining.

**Mr. Deacon:** I was just thinking in connection with that, that would take about an extra \$600,000 in fees. That's a very small item in comparison to the security transfer tax dropping. I can see the problem in that one, because that's several million dollars that would make a difference in transactions.

I really don't feel that bringing the principle of income and revenue of a department like this in balance with its expenditure is a bad one.

In connection with this companies branch, maybe you are saying in total we are getting enough so it is brought in balance. Probably that is the reason the previous minister had told me that actually the revenues and expenditures were pretty well in balance. I had understood it to be that way from branch to branch. But I certainly go along with the idea that we should not have general revenues depleted by this department. I think the business community should be carrying itself in this regard.

There is another item that I would like to bring up if I could, if you are finished with that, Mrs. Campbell.

**Mrs. Campbell:** Yes. Except I'd like to get a statement in writing, if I could, on the figures given, because I haven't been able to follow my notes.

**Mr. E. Johnston:** I just have the fees here.

**Mr. Deacon:** Mr. Chairman, I hear reports of a very rapid turnover in some of the talent that you have in the securities commission, lawyers for example. I was wondering what the turnover in staff had been in the legal end of the Securities Commission during the last year. How many are on staff and what has the actual turnover been?

**Hon. Mr. Clement:** With the Securities Commission?

**Mr. Deacon:** Right.

**Hon. Mr. Clement:** Mr. Williams, you have indicated about three or four people.

**Mr. Williams:** Yes.

**Mr. J. K. Young:** The complement is 91, incidentally. As a starting point.

**Mr. Deacon:** Ninety-one lawyers?

**Mr. Bray:** No, no. I haven't counted the lawyers.

**Mr. Deacon:** I am asking for the particulars with regard to the higher-paid staff. I'm thinking of the legal profession particularly.

**Mr. Williams:** Yes, Mr. Chairman, there have been three or four lawyers leave the Securities Commission during the past year and they have been replaced.



**Mr. Deacon:** How many do you have on staff?

**Mr. Williams:** Lawyers?

**Mr. Deacon:** Yes.

**Mr. Bray:** Thirteen. Just counted.

**Mr. Deacon:** Is that turnover of four out of 13 considered normal?

**Mr. J. K. Young:** I think that's not unusual, Mr. Deacon. We have young lawyers joining us and this is general through our ministry, not just the Securities Commission. We find that if we can get four or five years' service—or three years', something of that nature—out of a young lawyer, that the government gets its bit. The young lawyer, then, in many cases, tends to go on and join industry. It isn't unusual to have a turnover of, say, 25 or 20 per cent of your staff in each year. I don't think you can equate stability among lawyers to the normal stability of personnel in the civil service.

**Mr. Deacon:** Some of us would agree with that from our observations. But I would still feel that this idea of having to rely on young lawyers, who are going after three to four years, might be one of the reasons that the Securities Commission sometimes has difficulty in dealing with the legal problems. What about your ability to retain or obtain the services of fairly skilled people with experience in the industry that would make them competent to deal with the highly skilled people they are having to deal with in prospectus work or anything else?

**Hon. Mr. Clement:** Mr. Deacon, we don't concede for a moment that we're having any difficulty with legal problems.

There's no question in my mind but that we should have a fairly senior counsel, at some time in the near future, employed by the Securities Commission for one or two of the reasons you've touched on. Perhaps an older man might relate a little better to older solicitors appearing before the commission, but we're not aware of any particular area of difficulty. The bulk of the complaints that have come in to the commission are about matters pertaining to investment this year. I understand this has been the pattern developed over the last few years—it relates to complaints made by minority shareholders or the position of minority shareholders in companies.

**Mr. Deacon:** I have something to comment about that later on. I'm thinking about the problems met by the industry when they're dealing with the legal people in your prospectus end, as well as in other areas. I've heard many complaints about this.

I was going to say that I think there are probably few people in North America who are more knowledgeable and more skilled than your vice-chairman, as far as the securities industry is concerned. I don't think he has a reputation for being the easiest person in the world to work with, and maybe that isn't something that is necessary, except I think it's important that you realize that you have quite a shallow staff as far the depth and the strength are concerned—you should have backup there.

And I suggest to the minister he should take a very good look at the turnover problems—the level of experience and depth behind the vice-chairman. I certainly hear more comment on the lack of backup and depth in the Securities Commission than almost anything else. They feel that there are two or three people that they can deal with, and they know they're going to get good solid answers and know where they stand. But there's a real problem in dealing with others. I think that is something the minister should look at carefully and come up with a solution to this. We're all mortal, and any of us could—

**Mr. Lawlor:** You don't have to die that soon.

Let me back him up just for a moment. This is the complaint I get, too, from the members of the bar who are involved in this particular area of work. They say, for instance, they can phone the SEC in Washington and get some young lawyer on the line who is whip-smart and intelligent, and they're willing to discuss the pros and cons and work it out. But not here.

Almost every time they phone, they are told "I'll have to look that up" or "I'll phone you back," and three or four weeks later they get a phone call back. Or, they say, "Hold it for a moment," and they go and talk to somebody else and come back to the telephone. Or, they say, "You better speak to somebody more senior on the staff."

There are people there who are good, but they must be overloaded with all the hearings they have. They get these mountainous piles of their blue-covered security releases.

I think they are definitely understaffed, and I think that while the level of pay and

emolument is probably as attractive as in any other branch of the industry, for some reason they are unable to retain staff. I think a concerted effort is going to have to be made here in the next six months to bolster that staff and to see that it is made sufficiently attractive that they stay and get the experience. It's a highly esoteric field of legal endeavour, and maybe for that very reason they get sifted off.

On the other hand, you should induce them, as they are doing in the Attorney General's department more than ever before. It's a career; when they go into appeal work, they stay for years. Even the Crown attorneys are sticking, which is a new phenomenon in the world. But here there is some holdup. You will have to direct your attention in order to get the level of service and the level of competence that I know you are anxious to have in your department. It's a weak link in the chain, and I think it is our duty to point that out.

**Hon. Mr. Clement:** May I emphasize that the vice-chairman of the commission, while an experienced man in the securities business—possibly one of the best in the country—is not on the commission as a counsel to same. He is there as vice-chairman of the Securities Commission.

**Mr. Deacon:** I'd say he is everything in that commission. He is really in effect chairman, he is director, he is about everything, and I don't think his title means very much as far as the real influence he carries is concerned.

**Hon. Mr. Clement:** Insofar as retaining at some future time a senior counsel to act in the capacity of counsel only, I concur that a need may exist. I am also aware that we will undoubtedly have a difficult time competing with the private sector in obtaining a man of that calibre, because I think if he is expert in that field of corporation and securities law he will at that time of his life be earning substantially higher in the private sector than he would be starting a career in the civil service. However, people do join the civil service later on in their career for various reasons, and we are looking and there may well be a man available who suits the criteria that we would require.

**Mr. Deacon:** Mr. Chairman, I might point out to the minister that many people appreciate being appointed to the bench at remuneration well below—

**Hon. Mr. Clement:** That's right; that's right.

**Mr. Deacon:**—what they would normally expect to earn in private practice. The reason they do so is a sense of opportunity to serve and the conditions under which they may carry out service. They can expect dignity in the way they are dealt with by their own associates. I just feel you should take a very careful look at this situation because it hasn't been strengthened—if anything it is worse than it has been in the past—and I feel that this is something that shouldn't be allowed to carry on any longer in the way it has been.

**Mr. Lawlor:** May I just ask a question of the director of personnel? Are there any difficulties in recruitment? Are there a lot of applicants when you are trying to fill the positions?

**Mr. Williams:** Sir, there are no difficulties in filling positions. We have a number of applicants apply, any one of whom would be quite suitable. They do tend to be younger lawyers, either just out from the bar, with very good backgrounds, or they have had little experience and are being called to the bar. But we do not have difficulties.

**Mr. Lawlor:** Are you aware as to the level of skill given in the law schools in the field of securities law? When I was there, it wasn't very high.

**Mr. Bray:** Mr. Lawlor, actually it is better now than it has been for years. As all of us know in the profession, there are many more graduates coming out than there used to be.

Securities law is getting to be a more and more attractive field and there are specialty courses in securities; and we are starting to get some results from this. The fact that we have two law professors on the commission, I think, is a good deal of help.

I think it is a fair statement to say—and I hope you don't mind my jumping in, Mr. Minister—but we now have probably the brightest collection of young lawyers, certainly since I came back in 1964. You may query that a year hence, but that's my view.

**Mr. Lawlor:** Good—if they stick.

**Mr. Bray:** If I am here.

**Mr. Lawlor:** How long a time must they be on your staff before they are, in your opinion, qualified to handle routine matters with any skill?



**Mr. Bray:** They are thrust right in with the best very quickly. You ask the time it takes to achieve a degree of competence. A man could be six months, he could be two years, depending on the competence of the man to come up to speed at the right level. A newly graduated lawyer, newly called to the bar, can be very effective quite quickly.

**Mr. Lawlor:** Six months?

**Mr. Bray:** Yes.

**Mr. Deacon:** Mr. Chairman, the comments that I have received are from people who have been dealing with the commission extensively for many years and they are concerned; that was one of the things that you would have heard at the seminar we had last November.

The other thing that they do, and I repeat, is to compliment the commission—and particularly Mr. Bray and his knowledge of the industry. On the whole, they are very complimentary toward the Securities Commission, but they really feel that we should find ways of deepening and strengthening our group of experienced counsel so that they don't have to go back so repeatedly to two or three people in situations where some judgement is required.

**Hon. Mr. Clement:** I haven't had one written complaint about the activities of the commission since I have had the responsibility of the ministry. I have been approached in one instance, not in writing but in person, as to a ruling that was made by the commission. I advised the individual who made that enquiry that I would in no way attempt to interfere with the ruling, that it wasn't proper. I indicated, I think rather forcefully, that I thought it was improper for him to speak to me on it. It's the only one I have had. If you have any complaints—

**Mr. Deacon:** Well, you must realize that here we are dealing with a commission which is everything. It's judge, jury—it has got the whole function. People are not likely to complain to you as individuals. That was one of the reasons I felt that when you had discussions, where there was a broader input, then they possibly wouldn't be so hesitant in making a comment. Mr. Young smiles, but that is the case.

**Hon. Mr. Clement:** But I say—

**Mr. Deacon:** I find it very upsetting when you seem to feel that people are going to come forward in a formal way to complain when their very livelihood could be cut off

at the whim of somebody within the commission.

**Hon. Mr. Clement:** Mr. Young commented to me he never ran into anybody in the investment community who was too shy, and I share that—

**Mr. Deacon:** No, I assure you that they are not shy generally, but they are also very shy as anyone else would be if they were going to lose their livelihood.

**Hon. Mr. Clement:** Well, I wish that applied to people who are licence-holders under the Liquor Licence Act. I have never run into anybody shy in that area either.

**Mr. Deacon:** Maybe they fortified themselves before they came to you.

**Hon. Mr. Clement:** They might; but if you have any specific instance that you would like to bring to my attention, I would urge you to bring it to my attention.

**Mr. Deacon:** In the future if there is another opportunity, which I hope there will be, where they can actually do it face to face, where there are enough of them there and the whole thing can come up, then you get the feeling they are fair, these people. That's one reason I was hoping Mr. Bray or the chairman would have been at that conference last year along with somebody like yourself. There isn't the concentration of attention on one person. You can get a feeling of what the general attitude is, and it's not a witch-hunt.

They're not after witch-hunts. They recognize that this commission is doing a very important job. It's helping to protect the interests of the industry by protecting the public that it serves. So, we are not talking about that. It's just a matter that they are concerned about the strengthening of the commission, because they feel that it could be really shaken by the loss of one or two people. I think that's something that you should look into.

I've also been approached by people in the daily press who feel that we're not nearly as helpful in the commission in enabling the public to know what's going on and knowing when there are hearings. The hearings are closed compared to what is done in the SEC. They point out, in their view, and I think I agree with them, the maximum of openness of these hearings is good. I know it's a special situation in the investment industry because the public's very sensitive to anybody who comes before the commis-



sion. He's almost guilty before he's even heard. Certainly, that was the case in our own firm three or four years ago and in the Ames case last year.

In the case of the Ames situation I was really quite surprised at the way that the hearing was called, having to show cause as to why they should be allowed to continue in business. It seemed to me that the hearing should have been called to investigate the situation, then afterwards have an open hearing, and decide to lay charges against Ames as the result of the evidence. But, in effect, to call a hearing to present open evidence in a way that condemns a firm first, I thought was most unfortunate.

Those are some of the points that I'd like to see the commission look into; the openness of hearings and ensuring that the press is advised when hearings are taking place. I think they now go to the commission once a week and by looking on the bulletin board, they can find out about it, but they can't find out about it by just phoning the commission. Anyway, some of the SEC practice in regard to this, I think should be looked into because I understand that those who have had experience in the US have found it much easier to be informed of what's going on.

**Mr. Chairman:** Any further questions on item 1? Mr. Renwick.

**Hon. Mr. Clement:** If I might just interject, Mr. Renwick, for a minute. Since April 17 of this year all hearings have and will continue to be open hearings. We may find that we may receive complaints from the investment community because they are open, in that if an investigation is completed and a hearing is called and the decision of the commission is that the individual or the firm is exonerated from the charge pending against him or it, he or it may feel that some harm has been done in a public sense by the fact that there was publication of the proceedings of that hearing. Since April 17 they have been open hearings.

**Mr. Deacon:** I think that a lot of that problem can be dealt with by the way in which they are coming before the commissioners. I referred to the wording of the Ames case because I thought the wording was most unfortunate in calling the hearing. I think if you call people up to investigate a certain situation, then it should be open and they are not condemned until a decision is handed down. Sure, they're under a cloud, but to have an open hearing gets the evidence

out. I can't see anything wrong with that and I'm glad to hear you're going toward that policy of much more openness in the hearings.

**Mr. Chairman:** Mr. Renwick.

**Mr. Renwick:** There are two or three areas—perhaps more than that, but two or three will do for me to start with—about which I'd like to ask Mr. Bray, Mr. Chairman. It appears that no matter what the commission does it never ever does quite enough to please the prospectors in the mining industry. Despite the various statements that were made about a year ago by your predecessor regarding the financing of mining companies and distribution through the exchange, as late as March of this year we had this statement by the incoming president of the Prospectors and Developers Association:

Government regulatory authorities have made the raising of this risk capital very difficult, thus reducing and retarding the chances for the prospector and small mining company to come up with new mineral discoveries. In this regard, the image of the Ontario Securities Commission with those persons employed in prospecting and exploration is very uncomplimentary. The present attitude of the OSC with regard to the use of escrowed shares is negative.

He also said they had put forward a number of proposals to the industry.

Well, having been one of the ones who was involved in successfully curtailing the issuance of mine securities through the exchange some years ago, could Mr. Bray very briefly bring us up to date on the position of the commission on this whole question of junior mine financing and on the continuing demand for a second exchange in the north in junior mining issues?

**Mr. Bray:** Mr. Renwick, I notice you had a newspaper clipping; and if that's the one I am thinking about, the reporter got a letter that was written about a year before. Is this about the incoming president of the Prospectors and Developers Association?

**Mr. Renwick:** Yes. This is dated March 15, 1973.

**Mr. Bray:** Well, this gentleman was quite embarrassed. I'm sorry I didn't bring the file over but, actually, we've worked with the Prospectors and Developers Association. He said a lot of kind things about us, so I understand, and he was most embarrassed by the article; we got a letter from him apologizing for it coming out in that way.

Actually, a year ago, as was announced, we started to review the policy. Several things had happened in an attempt to assist the mining industry, and one was that some years ago we put in a short and simple form of prospectus, involving no red tape—trying to keep the lawyers' and accountants' fees down to a minimum—but it hasn't been used. It was aimed at, and is still aimed at—and it is still contained in the Act—the bona fide mining man. It was hoped that local people in places like Kirkland Lake, Timmins, the Soo and so on would sponsor mining exploration companies with a minimum of fuss to raise a minimum amount of money to get off the ground.

We did two things last year of some consequence, I think, to ease the burden. First, at the request of some of the mining bar, if I can call them that—people who are experienced in the mining industry and working with the exchange—and the prospectors and developers, we worked out a formula that would have eased the mining financing problem through the exchange. I won't bother getting into the technical aspects of it—it just hasn't been used. It was used by one company, and one company only.

The second aspect is that under the formula we have had for some years, the prospector gets up to 750,000 shares for his potential mining property. Much of that stock—675,000 shares—is escrowed, locked in, and he has to take the risk with the cash purchasers. The remaining 75,000 shares are available to him immediately, theoretically at least, to compensate him for the work he has done—going out in the field and so on. And, frankly, this stock—bitter experience tells us this—goes to a certain segment of the mining dealership, largely in Toronto, who want the free stock as a sweetener or a bonus for attempting an underwriting for this grassroots property.

The bona fide mining men again found that in order to get further financing if the property started to look a little encouraging, to get more money raised through this spectrum of dealers, they had to provide more free stock out of their vendor considerations. In an effort to assist them in this—and not because we think it's moral or equitable, but because of the genuine requests and demands from the people like the gentleman you referred to in that article—we have eased off. We say that we will release from escrow providing there is an ongoing exploration programme supported by an engineering report.

That received a lot of compliments. I think the Minister of Natural Resources (Mr. Bernier) made some comment about that. Really it's those people that this is directed to the aid of—the mining industry in Ontario. I can't say that there has been any great sort of rejuvenation of mining because of this. I think what we need is another Texas Gulf or something of the sort in Ontario, to rejuvenate—but certainly I think we have eased the burden.

We also made it a little more attractive from a price spread point of view. We haven't taken the reins off, but, by relaxing it and perhaps making it a little more attractive from a potential profit point of view—and to provide initial financing for these very-high-risk speculative kind of ventures. I probably have spoken too much.

**Mr. Renwick:** What about the issuing through the exchange?

**Mr. Bray:** It hasn't been eased off really. There is this technical change that was made but it hasn't been used. And of course you are back to the principle which you've debated some years ago as to whether financing should be done through the exchange at all.

**Mr. Havrot:** Mr. Chairman, I understand from one of the prospectors that the problem does not exist with the Securities Commission but with the exchange in promoting the stock. This is the difficulty they are encountering with the Toronto Stock Exchange.

**Mr. Bray:** I think perhaps you must be a little sympathetic to the exchange. The Toronto Stock Exchange, it's fair to say, 15 years ago was considered sort of the Las Vegas of Canada. It was an image which culminated in a royal commission, the Windfall commission. Partly through enlightened self-interest and partly by urging through government regulation, the direct supervision of the exchange through the amendments which were put into the 1966 Securities Act have all tended to make it what it considers itself to be now, Canada's national paramount exchange. I know that's not a point of view that raises much joy in anyone else's heart, but this is the image they are striving for. They don't want the mining image.

On the second aspect I address myself a little bit on this score to Mr. Renwick's point about the rumblings one hears about the need for another exchange. A year or more ago we wanted to see what the over-the-counter market for mining stock was. In order to finance a second exchange you have got to have a viable vehicle. There must be enough trading



to support a vehicle like this. We sponsored and encouraged the publication—which incidentally is completely self-supporting, Mr. Deacon—the unlisted OTC daily reporting system, which is run on our behalf by the Investment Dealers Association.

We wanted to see how many mining stocks were being traded and what the industrial market was. We are talking about a market. We are not talking about a sales vehicle to peddle pieces of paper, we are talking about a bona fide two-way—

**Mr. Deacon:** You are talking about a secondary market.

**Mr. Bray:** Secondary trading market, right.

I think most ministers in the last two or three years have had some requests from the chambers of commerce in northwestern and northeastern Ontario for a mining exchange. There must be enough trading to support a market because after all, the thing has to pay for itself on a ticket or something of that sort.

The exchange is completely self-supporting. All of the Canadian exchanges are completely self-supporting — supported by the ticket charges and the membership charges made to the members. I think if you look at the volume in tomorrow's *Globe and Mail* of the number of mining trades that are reported by the Toronto dealers, you will find that there is not enough trading to warrant the opening of a mining exchange.

**Mr. Deacon:** I think the main problem the Toronto Stock Exchange had is the question of using the exchange for primary distribution of the mines. They are particularly worried about mines which were really dormant, and didn't have sufficient assets to warrant them being—

**Mr. Bray:** Two aspects, right. The listing of course is a benefit. By the fact of listing it gives a credence to a company which perhaps may not be warranted. That's why the TSE in the last several years has incurred the wrath of some promoters when it drops below what the TSE holds to be a viable minimum, which is \$25,000. It will encourage them to get new financing, then if they don't get new financing, it suspends the listing. You'll find that someone is keeping an office open and looking. The major asset of the company at that point in time, when it drops below \$25,000, is probably the listing. That's not much of an asset to found a venture on.

The exchange, of course, has been concerned about the yoyo juggling on the

market, the rumour factory and so on, which attached to it prior to 1964, I guess. Windfall was 1964, wasn't it? It has been pretty concerned about that and it's put in pretty restrictive measures designed to minimize the opportunity for a promoter to blow the stock up and then walk away from it, leaving the public holding the paper.

**Mr. F. Drea (Scarborough Centre):** Mr. Bray, I wonder if you could tell someone like me how much of every dollar which goes into a junior mining stock ever winds up in the actual work done in bringing in a mine?

There was a very excellent study done some years ago by an economist named Don Taylor. I forget the amount, but the amount at that time was so insignificant that it startled me. Out of every dollar raised, how much actually goes into the work right at bringing in the mine?

**Mr. Bray:** I think your comment as to several years ago is a very relevant one. In point of fact, when starting about 1964, this was one of the things which was quite disturbing. When the commission, if you like, got its new image, when the staff became more professional, all of this heavy burden we are talking about here tonight came up.

What we insist on now is that there be enough money—net; after expenses and everything is taken off the top—to do the preliminary work programme recommended by the engineer. To answer your question more directly, the markup is 10 cents; stock can be sold at 20 cents so the public pays 20 cents. There's 10 cents off the top; that's 10 cents to the company's treasury. Now we say that six cents, no less than six cents of the dime, must go into the exploration side of the programme; not more than four cents of that dime for other expenses—it still sounds like very little money out of 20 cents but it's much better than the proportion Mr. Taylor found several years ago.

The money is going into the ground. The member of the public who pays his 20 cents is now getting at least the initial run for his money. It would have been fair comment 20 years ago, perhaps 15 years ago, that he wasn't getting a run at all; none of the money was getting much farther north than Thornhill.

That's the story as of now. It's not tremendous but at least it's six cents and it's getting into the ground. That is something that seems to have been lost sight of.



**Mr. Renwick:** The second point that perhaps the minister would comment on, as well as Mr. Bray, is the report on the ownership of the securities industry, the ownership committee of the Ontario Securities Commission. What is the status of the work on that report?

**Hon. Mr. Clement:** I anticipate that that report should be brought forward in the matter of a very few weeks.

**Mr. Renwick:** With legislation to deal with the question of ownership of the securities industry?

**Hon. Mr. Clement:** I think I should put it to you in this way. It will probably be changed by regulation; that is, it will come in under regulation as opposed to legislation.

**Mr. Renwick:** You don't think there is any need for legislation?

**Hon. Mr. Clement:** I don't really. I think it can be handled by regulation.

**Mr. Renwick:** The Premier's (Mr. Davis') statement indicated it was a question of legislation being brought forward. The Premier made a statement on May 1—strangely enough just a year ago—that before proceeding to the drafting of legislation, the government invited comments and observations and would give these suggestions due regard before proceedings are drafted.

**Hon. Mr. Clement:** I think he probably meant by regulation. My understanding of it is that whatever changes can be brought about can be handled under regulations.

**Mr. Renwick:** Have the decisions been made then? Or are they in the process of being made?

**Hon. Mr. Clement:** No, they are just in the process of being made. I have made no decisions.

**Mr. Renwick:** Is there any urgency about coming to a conclusion on it?

**Hon. Mr. Clement:** I think once we have got the report, we want to move on it right away. I can't really describe it as urgent but I don't want to set it on the shelf.

**Mr. Renwick:** I find the policy statements—to the extent that I ever have time to look at them and read them—quite interesting, but it is a kind of legislative operation that you carry on with these lengthy policy statements which are issued by the commission. Is that the best way to deal with it? The only efficient way to deal with it?

**Mr. Bray:** The policy statements, when you get down to them, are merely statements as to the manner in which we will normally exercise discretion in a given case. They are not binding. The complaint was that we were not acting consistently, that you might come up with a given set of facts in one situation and the profession and the industry didn't know where it stood. If it did a certain thing, was it likely to be in hot water, and so on?

These things were conceived as a method of indicating to the profession and to the industry how we felt generally. As I say, they are not hard and fast statements. There may be one or two cases—I think mutual funds are excellent examples—where policy statements were used as an interim measure pending legislation. I think the policies were clearly declared at the time on certain aspects of mutual funds.

There were certain matters in the Canadian Mutual Fund Report which were dealt with nationally as a result of agreement among all the provincial administrators by way of policy, pending ultimate decision by their governments as to how the thing was going to be tackled from a legislative point of view. I would agree that legislation in the end is the better way for that.

**Mr. Chairman:** This might be a good time to break. It's 10:30. We could meet tomorrow after the question period.

**Hon. Mr. Clement:** Mr. Chairman. I can't be here then.

**Mr. Chairman:** Sorry, on Monday after the question period.

The committee adjourned at 10:30 o'clock, p.m.

---

**CONTENTS**

---

**Thursday, May 10, 1973**

Ministry administration programme, concluded .....	S-289
Commercial standards programme .....	S-306
Adjournment .....	S-314











Ontario

LIBRARY

MAY 23 1973

UNIVERSITY OF TORONTO

# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

---

**Monday, May 14, 1973**

**Afternoon Session**

---

**Speaker: Honourable Allan Edward Reuter**  
**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER**  
**PARLIAMENT BUILDINGS, TORONTO**  
**1973**



10



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

MONDAY, MAY 14, 1973

The committee met at 3:15 o'clock, p.m. in committee room No. 1 Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1302:

**Mr. Chairman:** The last day we were on vote 1302, item 1, securities.

**Mr. D. M. Deacon** (York Centre): Mr. Chairman, I wanted to ask something about the role the Ontario Securities Commission sees itself taking with regard to—

**Mr. J. A. Renwick** (Riverdale): Mr. Chairman, if I may interrupt, who is here from the commission?

**Mr. Chairman:** Mr. H. S. Bray.

**Mr. Renwick:** Oh, sorry; I didn't see him.

**Mr. Deacon:** You are wasting away, Harry.

**Hon. J. T. Clement** (Minister of Consumer and Commercial Relations): Mr. Chairman, as I recollect, the other night when we ended Mr. Renwick had posed a question dealing with the possibility of a second securities exchange, perhaps in the northerly part of the province; and Mr. Bray, on behalf of the commission, had concluded an explanation and discussion with reference to that question. We rose then, as I recollect, about that time. Perhaps those who were not here might have their memories refreshed, and those who were here might have the same benefit.

**Mr. Chairman:** Were there further questions in connection with item 1?

**Mr. Deacon:** That is what I was trying to continue, but I thought the minister had something further to say in regard to Mr. Renwick's point.

**Mr. Chairman:** Well, Mr. Renwick was asking who was here from the commission and Mr. Bray signalled that he was present.

**Mr. Deacon:** I didn't understand what Mr. Clement's point was, but I didn't want—

**Mr. Chairman:** Mr. Clement was bringing us back to where we left off.

**Hon. Mr. Clement:** I'm sorry. Actually that was for the benefit of Mr. Fred Young (Yorkview). He wasn't here the other night. The rest of us were. I didn't realize they all were here except for Mr. Young when I made that comment.

**Mr. Deacon:** I have been somewhat concerned about the role the Ontario Securities Commission has been seeing for itself with regard to minority shareholders and the problems they experience on occasion.

For example, one case that has come up over the years—and I wasn't here, unfortunately, last year at the time these estimates were considered—is the Radio Engineering-Nytronics dispute, where some of the shareholders have been doing everything possible, for a long period of time—or they were doing so—to put themselves back in the position they felt they were entitled to be able to retain; that is the minority shareholders of Radio Engineering. Rather than being forced in by Nytronics under an offer they felt was illegal—or wasn't a proper offer in that they felt there was an out-of-date prospectus which didn't disclose the Gairdner conflict-of-interest situation, and there were some misleading statements as to shareholdings; there are a lot of inconsistencies that these people allege with regard to the whole position of the Ontario Securities Commission in that particular case—so that they felt they did not have the co-operation of the commission in helping them in their battle with Nytronics.

I was wondering if I could get some background on why the commission took the hands-off attitude it did in that particular offer to shareholders.

**Hon. Mr. Clement:** Well, Mr. Bray, do you want to speak with reference to that particular one? And I would like to make a comment, following Mr. Bray's comments, on minority shareholders' position, if I may.

**Mr. H. S. Bray** (Vice-Chairman, Ontario Securities Commission): Well, Mr. Chairman, Mr. Minister and members, on that specific item the documentation was examined, I am informed, and it was in compliance with the Act. This is my information.

**Mr. Deacon:** The difficulty there, it seemed to me, was that if this had been an offer made by a Canadian company in the US, to US shareholders, the SEC would have ensured that the prospectus was up to date, and it seemed to me that that was a pretty old prospectus and out of date at the time it finally was mailed. Don't you have a responsibility in a case like that to ensure there is an up-to-date prospectus, that after a period of some months the prospectus has to be updated before it could be valid?

**Mr. Bray:** Well, to answer your question, as a matter of law and fact, the legislation—and this goes back to the Kimber report—the legislation requires it to be filed. It is not accepted for filing. The Canadian law generally differs from the US law in that regard.

**Mr. Deacon:** I am sorry, I'm not sure of the technical detail.

**Mr. Bray:** It is not technical, it is substantive; in order to review a prospectus or a takeover bid circular, or anything of that kind, you must have staff to do it. The law contemplates filing. I must say that generally speaking—and you can refer to the merger study on this—we found, in 1970, that most people were responsible and did comply with the law.

**Mr. Deacon:** But what happens when people aren't responsible and they do continue an offer on a prospectus that would normally be considered stale, that doesn't have up-to-date information? When does a prospectus become stale?

**Mr. Bray:** Well, I had an impression this was a takeover bid circular you were talking about, and a takeover bid has to be concluded within a relatively limited period of time. I think it is 70 days, all told. I am just not sure, Mr. Chairman; I am afraid I haven't got this in my head.

**Mr. Deacon:** As I remember it, it was over six months from the time of the statement to the time of the offer. Actually, I think the statements were dated Dec. 31. There was a prospectus sometime in May and there was a change made in the offer because the first offer wasn't accepted. The

changed offer—they were still using the old prospectus but on a new basis of exchange—was in September or October.

Surely it would have required a brand new prospectus for that revised offer?

**Mr. Bray:** I am afraid I—I am sorry, Mr. Chairman, I haven't got any more information here. We are talking about a specific case.

**Mr. Deacon:** Well, that is understandable, because it is an old case.

The main thing I think I would like to bring to your attention, Mr. Chairman, is that I feel the OSC has a tremendous opportunity to help minority shareholders, not by taking action on their behalf but in actually making available to shareholders the information they alone are in a good position to get with regard to minority situations.

Details, for example, of buying in advance of an offer. It is very difficult for a minority shareholder to find out who did the buying and the background of the trading. I think the OSC's role should be one of checking into the situation, which they can do quietly and discreetly, and making information available to a group when people request assistance in this regard.

I have done a great deal of work on my own during the time I was in the securities business, trying to help minority groups. I had a great deal of success; but I was in a much better position than an individual shareholder, because I was acting on behalf of many shareholders, to actually take action where I felt there was unfairness, an unfair offer or unfair practice; and in most cases I was quite successful.

But individual shareholders, unless they do have such leadership by somebody on their behalf, are at a great disadvantage because their holdings don't usually justify a great deal of time and attention and investigation. Their experience and background often doesn't put them in a position to investigate the background; they can just sit and boil and be resentful about the fact that every vote is against them.

I also recognize the fact that the Securities Commission itself shouldn't be taking a position as an adversary, but they can get into the background and dig out the facts, which they have the right to do. They can go in and ask any firm for background details of who is doing the buying on any issue; or where there is a lot of buying taking place prior to an offer, which puts the price up. I think that information should be made known



to the shareholders who ask for such assistance. Then let the shareholders take the action, but at least they have the evidence on which to take it.

I would appreciate the minister's comments on this.

**Hon. Mr. Clement:** Well, Mr. Chairman, the role of the minority shareholder can be, in many instances—and I suggest in probably most instances—not a happy one, particularly in companies where shares are not publicly offered, and for the sake of convenience we refer to them as private companies.

The select committee on company law, I note with interest, has been conducting certain hearings in the last week or two, in camera presumably. They are in the process of writing their report, and this well may throw some additional light on this particular problem.

When I was connected with that committee last year we heard some pretty sad tales from people in a minority position. I am thinking of one lady whose husband had many years ago invested a substantial sum in a so-called, then private company. After his death she found the only market she had was the man with control, who bought them at a discount.

As I understand the legislation right now, with reference to mergers and takeovers and so on, it is touched upon briefly in the Securities Act, and ever so briefly in the Business Corporations Act. When the committee went to the United Kingdom last autumn, discussions were carried on over a week as to how these matters are dealt with in the United Kingdom. Unfortunately, my experience terminated shortly after my return, and I really don't know what process or stage the committee is in.

But they were concerned about it, and so was the Securities Commission, which last summer attended before the select committee, I believe in this very room, and put some of their positions forward, based on their experience and observations of seeing what happens.

There are two prongs to the problem as I see it. There is the minority shareholder in a private company who hasn't got a market; and there is the minority shareholder in a company trading its shares publicly who may not know all of the information—which is exactly what you are saying—pertaining to the offer on a takeover. You run into problems. Are directors disclosing all of their interest? Are they going to stay on for consulting fees over a period of years? Is that a

benefit that belongs to the shareholders as a whole? All these things.

I know I can only speak for the select committee up to the end of September last, but it was a very involved thing and I'm very concerned. I anticipate that report will be forthcoming in the not too distant future and that we will respond in a responsible way to that.

**Mr. Deacon:** What does the minister see as a role of the Ontario Securities Commission, this branch of your operation, with regard to providing background information when shareholders bring to the attention of the commission a situation about which they are quite dissatisfied? Don't you feel there is a responsibility on your ministry to investigate the situation and make available to them the results of your investigations, so it is up to them then to decide whether or not they are going to take any further action?

**Hon. Mr. Clement:** I think the legislation which has to be created out of the report of the select committee will have to give the duties to the Securities Commission, insofar as disclosures is concerned. I can't speak for the select committee, and they have long since passed the point at which they were during my association with them.

**Mr. Deacon:** This doesn't really need the select committee does it? You already have the powers to investigate when you so wish.

**Hon. Mr. Clement:** The problem as it exists right now, as I understand it, is one of appraisal; whether the person who receives the offering is in fact getting all of the information and is in fact getting a fair price for his or her shares.

**Mr. Deacon:** Oh no! I am sorry, I have not made myself clear.

Let's take, specifically, the instance of the offer to the minority shareholders. Let's keep out the private company, as you describe it, and talk about the public company. Assuming that there has been trading in a stock—say stock X—for some weeks, and stock X has moved up from \$10 to \$12. Then suddenly, out of the blue, despite the company's previous denials, an offer comes out at \$15.

Those shareholders who sold their stock at \$10, \$11, and \$12 naturally feel somebody knew there was going to be an offer coming out at \$15. They were in the market for a period of time, buying a substantial amount of stock, and possibly had inside information. They may not have been insiders, in the technical way of describing insiders; they

could be friends of those who are insiders. But as it now stands, it is up to the Securities Commission to make charges, or the stock exchange to take action.

I would like to see the commission make available to shareholders, and former shareholders who feel aggrieved, the knowledge that they are able to glean, using the powers that the Securities Commission has to check into who did the buying. Then they would have a basis on which they can take an action if they so wish.

I am not talking about any change in the Business Corporations Act. I am just talking about existing powers of the commission and the responsibility the minister sees resting with the commission in assisting minority shareholders to that extent by making information available.

**Hon. Mr. Clement:** Accumulating evidence?

**Mr. Deacon:** Accumulating evidence and making the evidence available.

**Hon. Mr. Clement:** Mr. Bray, you indicated you could put Mr. Deacon's mind at ease, or certainly clarify his question?

**Mr. Bray:** I don't think I can altogether answer the question, but I can give you some information, that may be generally explained in this way.

Some time back we started what is commonly called the timely disclosure policy. As recently as within the last six weeks, on a Friday, as a result of this policy, we were advised that there would be a takeover bid at "over the market" coming out on the Monday. As soon as this information was available we issued a stop-trading order, and the official announcement said this was to permit the release of information. What we knew was that the fellow who was selling on Friday was going to be very upset on Monday when the offer would be for \$15, let's say, on the stock that was then trading at \$12.

So we are doing something in a positive way.

In general terms, it is not an offence for an offeror to go into the market, providing he discloses once he achieves the minimum, which in the legislation is now at 20 per cent. On the insider trading of course—the other side—if the insider group are purchasing in the face of an impending offer, that is what the case presently before the courts is all about, I think, the Slater Steel case. We will see what the courts do with that in the

end result. It is not precisely covered by law at the moment.

**Mr. Deacon:** Yes, I understand about that Slater Steel case. It, in fact, is somewhat of an illustration of what I am trying to get at. You realize I am not asking you to decide when you can take an action, but I think information should be made available to shareholders who inquire and who feel aggrieved. You should make that information, and all the information you have on the case, available to them. In this way they may say to you: "Why don't you take action?" Because it now is your responsibility under the Act.

You would also have the choice of letting them have the same data, the same background, and letting them take civil action if they feel they have a case.

I think that is important. I think that would have solved the situation on this Nytronics-Radio Engineering if they had felt they had the full co-operation of the commission in getting all the background details. But they felt there was a cover-up. There probably wasn't any cover-up at all, but they felt there was. They just felt that the commission was doing nothing about it.

I feel that the commission's role is not to take action, necessarily, that is up to the commission to decide when they have a basis for action, but it is their responsibility to help shareholders get information so that the matter is out in the open. I would appreciate the minister's opinion on that policy.

**Hon. Mr. Clement:** If the commission detects what might appear to be an abuse of the market by anyone, I think it should take some action. Whatever form that action is I don't know — stop trading or criminal charges, or charges under the Act. That is number one.

Number two, as to the availability of what the commission's investigations disclose; I haven't thought of that problem. I don't know what my reaction would be. In equity it would seem that it should make that information available. On the other hand, I can see where a minority shareholder might well try to utilize the manpower and the facilities of the commission to bring a rather vexatious type of action, just in the hope of settling at a more fortuitous benefit than has been accorded the other minority shareholders who've decided not to sell.

I have an open mind on it, but I accept the proposition. I think it's an equitable one.



**Mr. Deacon:** I would certainly appreciate the minister taking a good look at it, because I find that one of the real difficulties facing minority shareholders is this availability of information to them and the resources they have to dig out that information. As I mentioned to him, I was able to get it over the years when I went after a situation. I didn't win every case, but in most cases I came out quite well, because I was bringing enough of them together to bring forward a good case.

**Hon. Mr. Clement:** Well, one of the roles of the commissioners—of course their roles are many—is to keep their ears tuned to the marketplace. If they see unusual activity in any particular stock they check in and find out just what is going on.

**Mr. Deacon:** I'm speaking, though, of shareholders who come to the minister and say: "We don't like this information." Actually, in this case they're coming to the commission and saying: "We don't like this situation, we'd like to know the background data."

It isn't very difficult to get information. We get questionnaires all the time. Every firm that has been involved gets questionnaires. The firms shouldn't feel aggrieved or upset, because all this will do is increase the confidence of the ordinary person in the fairness of the investment industry, and that's what we've got to do.

**Hon. Mr. Clement:** I agree.

**Mr. Deacon:** So I would certainly ask the minister to follow that through.

**Mr. Chairman:** Mr. Singer?

**Mr. V. M. Singer (Downsview):** Somewhat a little more specifically, I noticed some newspaper comments, apparently emanating from the Securities Commission recently, in relation to trading in shares of Maple Leaf Gardens. At that point in time there was a rumour rife on the sports pages that Maple Leaf Gardens were, perhaps, acquiring another hockey franchise. There was the suggestion that one of the major shareholders in Maple Leaf Gardens had been acquiring shares in advance of an announcement. If my memory serves me correctly, Mr. Bray or someone else from the Securities Commission said they were looking into it. I wonder what the background of all that was and what has followed?

**Mr. Chairman:** Would you comment on that, Mr. Bray?

**Mr. Bray:** Mr. Chairman, I think it was our chairman, Mr. Royce, who made the statement. It was made in response to a reporter—I believe from the Toronto Star. In that morning's Globe and Mail, Mr. Beddoes, who is a man of many parts, commented on insider trading. He had obtained a statement from young Mr. Ballard, who was in the process of making statements on a variety of subjects that morning, including his trading in Maple Leaf stock. He said that Maple Leaf stock was a good stock and he had been out buying it—not only buying it but he specified the numbers.

Now patently, on the face of it, he had bought the stock in anticipation of the announcement which he made that morning to Mr. Beddoes. Mr. Royce said that we were examining it and that's where the matter stands. And we have not have a report, Mr. Minister.

**Hon. Mr. Clement:** I can remember the chairman mentioning it to me; he called me that morning.

**Mr. Bray:** Well, those are the circumstances, and I'm sure—

**Mr. Singer:** All right! Those are the circumstances. Now supposing he had bought stock in advance of the announcement. Is that an offence in your determination?

**Mr. Bray:** No, it's not an offence. It might constitute insider trading within the meaning of section 113, if it's an announcement which might reasonably be expected to materially affect the market price of the stock in the language of the statute. That's the kind of thing Mr. Deacon was talking about a moment ago, I think, where possibly the information could be reported through and under the Securities Act.

**Mr. Singer:** Well at what point in time is a director or a major shareholder compelled to declare his insider trading?

**Mr. Bray:** If he's an insider he is liable, civilly, any time he trades with knowledge. He's liable civilly, and that's what we're talking about. He's required to report it within 10 days of the month next following the trade.

**Mr. Singer:** I see.

**Mr. Bray:** I haven't checked to see whether Mr. Ballard has reported the trades, but I assume he has. He had already made the purchase public.



**Mr. Singer:** Well what was the purpose of Mr. Royce's announced investigation; if he did investigate?

**Mr. Bray:** I think, to be frank, he was phoned by a reporter who asked what about this? He said "we're examining it;" or "we're looking into it;" or something like that—as I think the minister has said. I can't say more than that, I don't think, Mr. Minister. There is an inquiry afoot and it has not been reported through.

**Hon. Mr. Clement:** Inside trading has to be reported within 10 days of the end of the month in which the trade took place. So you always have the possibility, of course, that somebody can do a trade on April 2 and not report it until May 10. In other words, there could be a 40-day period during which the insider trading is completed, until it must be reported. It could be 39 days, for example.

**Mr. Singer:** Well, whether rightly or wrongly, a suspicion was created in the minds of newspaper readers in that regard. I think it's wrong that it should be left dangling. If nothing wrong has happened, then I would think it incumbent on the Securities Commission to say so. If something wrong has happened, then it is equally incumbent upon them to say so. This seemed to have died; and I get bothered by this kind of a story when there is apparently no follow up.

**Hon. Mr. Clement:** It concerned me when it was drawn to my attention by the chairman. I don't know what motivated the maker of the statement, Mr. Ballard, unless he was demonstrating complete openness to the world, by making that statement, as to what his faith was in the Maple Leaf Garden stock, and he was disclosing that he was actively engaged in acquiring additional stock at that time. Of course the other side of the coin would lead one to believe that perhaps a statement by itself might well add to the puffing of the value of that stock.

**Mr. Singer:** Are you suggesting that a statement by Mr. Royce that he was investigating would have an offsetting effect?

**Hon. Mr. Clement:** I don't know, other than when it was drawn to his attention, the Securities Commission was under an obligation to inquire into it and find out just what had happened and what the purpose was.

**Mr. Singer:** All right. Accepting that, would you not agree with me then that the head of the Securities Commission having

said that an investigation was afoot, there was an equally important obligation on the Securities Commission at the first possible moment?

**Hon. Mr. Clement:** To make a statement!

**Mr. Singer:** To make a statement saying that everything was satisfactory, or that there were several things that were unsatisfactory; and that if they were unsatisfactory such and such action was being taken or might be indicated by the minority shareholders; or something to that effect.

**Hon. Mr. Clement:** Yes, I would agree with you on that.

**Mr. Singer:** All right then, having gone that far, when is it reasonable to expect that such an announcement will be forthcoming?

**Hon. Mr. Clement:** I don't know when I could anticipate that, but hopefully it would be forthcoming almost immediately. It seems to me, and I'm only going by my memory, that that was drawn to my attention perhaps three weeks ago. Would it be about three weeks ago, Mr. Bray?

**Mr. Bray:** I think that's right, Mr. Minister. Yes, I think that's right.

**Hon. Mr. Clement:** Oh! I'm advised by the vice chairman that the report has been finished and is being drafted right now and typed, and will be forthcoming.

**Mr. Singer:** Well now, what do you mean by forthcoming? Does that mean it will be made available to the public, or to the news media and so on?

**Hon. Mr. Clement:** Well, we will make a statement on it at that time.

**Mr. Chairman:** Further questions on this item? Mr. Renwick?

**Mr. Renwick:** Mr. Chairman, I have, oh a half a dozen things, but if the minister believes these are matters that can be best dealt with when the new Securities Act comes through the Legislature, there's no point in duplicating.

However, I did want to express my concern, in the new Securities Act, on the question of the limited catch phrase for insider trading. We've fooled around now for a long time, and if my reading of the new bill is correct there is, for practical purposes, no significant change. The net is so narrow it cannot possibly deal with the fundamental abuse which can take place.

I'm sure the minister, and certainly Mr. Bray, is well aware of the wide variation in the way we deal with the insider trading question in Canada and the way in which the insider net is cast in the United States.

I notice that in one of the critical analyses of the collapse of Equity Funding Corp. of America they had a reference which, I think, succinctly states their position. The American Stock Exchange defines insiders, in part, as all persons who come into possession of material inside information before its public disclosure.

This, of course, is an extremely broad net and doesn't depend upon whether or not you hold a particular position or have a particular influential position as a shareholder, or hold a specific office in the company. It further goes on to state that such persons include control stockholders, directors, officers and employees, and frequently also include lawyers, accountants, investment bankers, public relations advisors, advertising agents, consultants and other independent contractors.

Now without elaborating on all of the arguments in favour of a wider net, I simply wanted to record in your estimates, Mr. Minister, my concern that we're going to have to come, in the new Securities Act, when it's reintroduced into the House and comes through again, to a much more sophisticated approach. When I say sophisticated I mean actually deal with the reality of the insider trading net which is cast by our Act. If we do not do this, then I am quite satisfied that there are going to be abuses which will come back to haunt us in persons making use of information which they should not make use of.

I notice there is a very substantial law case—I haven't followed it all that closely—in the United States by Solomon Brothers against an outfit from whom they bought shares. The outfit from whom they bought the shares did not disclose they had been basing their transaction on insider information which was available to them and not available to Solomon Brothers, who are, of course, public underwriters or bankers in New York City.

Perhaps I need not say anything more at this particular point, and perhaps the minister will comment on my concern.

**Hon. Mr. Clement:** You have a very genuine concern, and the dismal tragedy of Equity Funding certainly pointed out a good number of the problems that can arise. We have received briefs and comments and letters and observations as to the type of thing that

you've mentioned, and I can only say that I hope, if I have any input into this thing, when the new securities bill does come about it will visualize that type of situation and perhaps provide areas to preclude it from happening.

Some interesting litigation, I'm told, commenced out of the Equity Funding case in the United States, where one or two investment counselors heard some days before the whole thing exploded about these forgeries that had been practised, and without doing anything about it, they called up all their clients who held shares in Equity Funding and advised them to immediately sell, and they did. And now some of the purchasers of that stock, who are not clients of the knowledgeable broker or brokers, have commenced litigation against the vendor's broker, saying: "You failed to disclose something that you knew. You failed to disclose it either to me as the purchaser or to the public authority in the person of the SEC, and that is a failure to disclose. I have suffered harm in that I bought stock which is now valueless. You knew a fraud was being exercised against the public, and yet you did nothing to stop it other than to bail your own clients out of it."

Those investment counselors have replied by saying: "My duty of care is only to my own clients, and if I was a little more prodigious and fortunate in having this information come to my attention, I'm under no obligation to make any disclosure, except to my own clients in the advice that I gave them".

Here are the two sides of it, and of course it hasn't come anywhere near being tried in court. But Equity Funding in the United States, of course, was involved in a gigantic forgery.

**Mr. Singer:** Did that involve Mr. Vesco?

**Hon. Mr. Clement:** I don't think so. This is the one where an insurance company would reinsure and would show policies in force.

**Mr. Singer:** Oh, these were the phoney policies.

**Hon. Mr. Clement:** Yes. They decided: If we'd laid off or pledged \$1 million worth of cash surrender value in the form of policies, why don't we just print a few more, pick names out of phone directories and go in with a carload of those and get money on them?" It just emanated from and was a decision that apparently was made right at the very top. How the thing kept growing



larger and larger and larger, I don't know. They were just complete forgeries. Policies written on non-existent people and so on.

**Mr. P. D. Lawlor (Lakeshore):** It goes farther than that, too. James Needham, chairman of the New York Stock Exchange, told the Financial Analysts Federation annual conference that professional analysts have "an obligation to the public which must take precedence over the duty to clients or employers or even self-interest". And it is fast becoming not just the analysts, but the whole brokerage establishment, if they come to this kind of knowledge. So the whole insider trading thing, if acted upon, is magnificently widened out at this stage; the whole concept has to be rethought, I would think, in terms of these decisions.

This is a Financial Post article of May 10, and there are ongoing articles about this. The financial analysts in the United States are in a state of disequilibrium, almost paralysed as to what they can and cannot say and they wish to know.

**Hon. Mr. Clement:** They are very upset about it. I would think, on the basis of almost motherhood, any court would have to come out with a decision approving that general statement. And yet a financial analyst, who holds himself out for hire and gives the best of advice from his own expertise, certainly would be a little bit hesitant to make everything that's known to him available to the world at large. So it will be interesting litigation, which I suspect won't be completed for some time in the courts of the United States.

I may add that the chairman of the Securities Commission went down—and I don't know who accompanied him to Washington in connection with this, unless Mr. Bray went down—and had some insight with the SEC, just to see how this fraud was practised on the public and certain financial institutions, in order that we might perhaps be forewarned of something similar occurring in this country. Billions of dollars have been just—taken.

**Mr. Chairman:** Further questions on item one?

**Mr. Renwick:** Yes Mr. Chairman, would Mr. Bray care to comment about the number of cease-trading orders, that apparently are increasing? It strikes me, without having any of the statistical information available with it, that there has been a very substantial increase in the number of cease-trading orders.

I am wondering what the factors are which led to that increase. Is it the vigilance and sophistication of the Securities Commission? Is it, in fact, practices which are relatively unsatisfactory for which the market should in its own way provide the discipline, without the cease-trading order? Or is it simply a lack of education in the marketplace when timely disclosure is required?

I express again my concern simply about the increase in the number of them, and would like Mr. Bray if he would, to comment about it.

**Mr. Chairman:** Can you comment on that, Mr. Bray?

**Mr. Bray:** I'd be pleased to, Mr. Chairman. I think the cease-trading orders are of two types. One is what I'd call the routine cease-trading, and I'll go on to describe that in a moment. The second type are those which are perhaps more relevant and meaningful to the marketplace.

Now as to the first type—and partly Mr. Renwick's assessment is correct—we are getting a little more feel for the marketplace and the use of the timely disclosure policy that was announced, I suppose three years or more ago, shortly after the cease-trading powers were given to the commission.

First, and what I call the routine type—and the director acts for the commission in these cases—is where our review of the regular financial disclosure of the reporting companies discloses that a company has failed to make the filings and there is no satisfactory answer as to why not. Usually these are speculative mining exploration companies that have had their run, they've had the one chance at the property they've had. The property hasn't proven up, and the shares in effect are worthless. There is no money in the treasury, and the company is dormant.

In some cases the company has been effectively abandoned by its management. This is as a prelude to eventual cancellation of charter. On the failure to file this kind of report, the director issues a cease-trading order.

In some few cases, and I think—how many, Mr. Howard? As high as 25 per cent?—the issuance of the cease-trading order itself causes some response from the company and they do update their financial statements and so on. These are the ones the director generally does under assignment from the commission and their result is of a surveillance by the financial disclosure section, the section



which receives the regular half-yearly, yearly reports and so forth.

The second type is the active type; and they're stimulated in a number of ways. For the unlisted OTC reporting we spoke of the last day, we have somebody who keeps an eye on that, and when the pattern appears to be unusual, the stock is moving perhaps more quickly than appears to be warranted by the news in our public files, the exchange of course does the same thing in their area, the area for which they have a more direct responsibility. Our people inquire of the company as to what might be causing this thing to move. They do some checking in the trading and if there's no reasonable explanation available, what is called a temporary cease-trading order is issued to stop them until there is an equality of information in the marketplace.

Sometimes we have positive information. Perhaps the company is in financial difficulties and this is unknown to the public generally. Again we'll stop trading on a temporary basis until this news is disseminated.

I mentioned a moment ago another instance where a cease-trading order was issued. This is when the news is good, when there is good news coming forward—and this may be good news by virtue of some take-over that they anticipate; or perhaps somebody is taking them over. On occasion the control is in fact moving to another group.

**Mr. E. Sargent (Grey-Bruce):** May I ask a question, please?

**Mr. Bray:** Excuse me?

**Mr. Sargent:** May I interject with a question?

**Mr. Bray:** Sure; please!

**Mr. Sargent:** In your cease-trading order, how many have come to you on information; or how many have you spotted yourself?

**Mr. Bray:** Mr. Sargent, I can't give you an average. Can you give us any idea Mr. Ross? Mr. Ross, who is in charge of the investigation section says that in his experience it's about equal. He's the man who usually brings it forward to us.

**Mr. Sargent:** One more then; how many people are watching—one person, or how many?

**Mr. Bray:** Mr. Ross?

**Mr. Sargent:** The "watching" in quotes.

**Mr. D. C. Ross (Chief Legal Investigating Officer, Ontario Securities Commission):** We've got one person as a regular over-the-counter market surveillance man who does nothing but market surveillance. I have a liaison with the Toronto Stock Exchange, their timely disclosure people and with the person who runs their market surveillance. If anything which is out of order in their trading patterns develop which seems to indicate there is more involved than merely an imbalance in the TSE market itself and that something fundamental is going on, they are in touch with me immediately. We can take action within, I would say, half an hour of something developing to stop trading.

**Mr. Sargent:** So one person does the watching?

**Mr. Bray:** No, through the timely disclosure policy we encourage companies to come to us on a confidential basis in anticipation of need, if I might put it that way. We get many confidential reports now that: "We are commencing to negotiate for this;" or "Something is happening here." Four of us, actually, receive this information—the chairman; Mr. Howard, the director; Mr. Ross, who is here today; and myself. Any one of the four of us may receive information which is kept on a confidential basis. This is before something has happened, so it does give us a bit of a lead. If the market starts to respond to rumour, and so forth, it does give us an opportunity of anticipating. This information is all collected and passed on to Mr. Ross so that his OTC man can be kept briefed. He keeps an eye on so and so, and if it starts to move lets me know. He isn't told what it's about because that information is kept tightly secure.

Now, keep in mind that these kind of orders are intended to be temporary. It's our hope to lift them as quickly as possible. As soon as the information, the truth, is out, it's our hope to lift the order so that the trading may resume. After all, unlike the routine ones I mentioned a moment ago, when the value was really gone, all you've got is a corporate shell with no assets, no money, no nothing. In these cases companies are trading and you're locking people in. So, it's our hope and intent to get the information out as quickly as possible.

It's also our hope, though, to respond quickly in imposing the order, because it's too late, if we don't act quickly, it's just too late to prevent somebody from acting on no information or on wrong information. Either

way, we have to act expeditiously and as quickly as possible.

Mr. Sargent: Thank you.

Mr. Chairman: Mr. Renwick, do you have a question?

Mr. Renwick: Mr. Chairman, if I may ask Mr. Bray, do you always give the reason on a cease-trade order?

Mr. Bray: Normally it can't be released. It isn't firmed up. You'll find they're usually pretty general. It might say pending release of financial information or because of unusual market activity. Now, it may be that we suspect unusual market activity, or know that there's false information floating around.

We have to respond quickly to investigate, and the facts are not always as hard as we'd like them to be at the time of the temporary order. We must have a public hearing within 15 days of the temporary order. At that point in time, our investigation should be complete and the facts come out publicly; or the order is lifted, one or the other. Normally, hopefully though, in the better stocks, where it's an information imbalance, the news of a takeover bid or something of that sort—or of a new development in process, or financial difficulties—the investigation can take place fairly quickly in three, four or five days, or perhaps 48 hours.

Mr. Chairman: Mr. Lawlor, do you have a question first? Excuse me, Mr. Sargent!

Mr. Lawlor: No, let Eddie go!

Mr. Chairman: Mr. Sargent.

Mr. Sargent: Well, did Equity Funding have any Canadian branch?

Mr. Bray: Not at all, not at all.

Mr. Sargent: I see. Had they made application?

Mr. Bray: No, one second, please.

Excuse me, we did have an application some years ago, I think.

Mr. Ross: Yes, and they were turned down for six or seven reasons.

Mr. Bray: And they were turned down for six or seven reasons at the time.

Mr. Sargent: Well, the minister may know that Equity Funding would still be blossoming, only a disgruntled employee who was fired blew the whistle.

Mr. Bray: Well, it's an amazing story, really.

Mr. Sargent: It is, and Fortune Magazine carried a piece on it. But, I'm wondering, why wouldn't this have been caught? Could this happen here? I mean, do you do an audit—do you do spot check audits on transactions within the corporation?

Mr. Bray: No, not at all.

Mr. Sargent: Do you have the power?

Mr. Bray: We have the power, but you're talking, don't forget, about a regulated company. This is what makes it a little more astounding. It's the insurance side of it, all these false insurance policies. There are some other checks that happen here that perhaps might not have happened in the US.

I'm told, for instance, there is a portfolio of assets, well several hundred thousands of dollars I think is low. I have a figure of \$700,000, and it may be larger. It just wasn't there. Now this is on the investment portfolio side.

Sure, that's possible. You can have a thief in any country that has investments. It's possible that a thief might do that, and I'm sure that Mr. Grundy will—

Mr. Sargent: But, it could happen here though?

Mr. Bray: I would be—well, I wouldn't have thought it could happen in the US either.

Mr. Sargent: Mr. Minister, in your short but brilliant career here, you may not know this—

Hon. Mr. Clement: I know I'm going to resent this question.

Mr. Sargent: What is the extent, or does anyone know the extent, of IOS or the Vesco affair in Canada?

Hon. Mr. Clement: No; I was questioned in the House on that today. I made a long statement on it some weeks ago and it was so involved, to tell you the truth, I forget the import of the statement. Mr. Bray briefed me on that statement I made to the House and perhaps he might answer your inquiry, Mr. Sargent.

Mr. Sargent: I wouldn't want to—if it's repetitious I wouldn't want to take the time on it, but I'd like to have a brief question on it.

**Mr. Lawlor:** I wanted to ask about it, too. I would like to hear about it.

**Mr. Bray:** Well, I think there are two aspects to that. The Canadian involvement is through the management companies, management of Canadian mutual funds which have never been in any difficulties, are not in difficulty, were not in difficulty and cannot be now, not by the same organization, because Eaton's Financial have taken it over.

**Mr. Sargent:** Say that again.

**Mr. Bray:** There are seven mutual funds that were managed, I said, by the same people, Mr. Sargent.

**Mr. Chairman:** Any further questions on item 1?

**Mr. Renwick:** Sorry, Mr. Bray was going on to the other aspect of it.

**Mr. Bray:** That's the Canadian aspect of it. The other aspect was that IOS and its complex were offshore mutual funds. Some of the funds were lodged in Canada under the stewardship of the Montreal Trust Co. as the depository custodian trustee for a Luxembourg trust called ITT, or something like that. At the request of the SEC, because of their action, we have taken steps here to freeze those funds that are available under the Montreal trusteeship so that they can't be further dissipated and so that they will be available for the shareholders of the funds to which they now belong.

Quebec has taken a parallel action. Our action in Canada as to those funds that have been shuffled around in the IOS Vesco empire is merely that. There has been no dissipation of public money.

**Mr. Sargent:** Is there equity there?

**Mr. Bray:** There is some equity in the ITT trust, because the funds are under freeze order actually.

**Mr. Sargent:** Do you have a firm knowledge of this?

**Mr. Bray:** Oh yes! We know that the assets are under freeze.

**Mr. J. K. Young (Deputy Minister):** It is a small proportion of the total left here.

**Mr. Bray:** It is about \$60 million. It is not bad. There are \$80 million or \$90 million frozen in Montreal.

**Mr. Sargent:** If any, what is the connection of Vesco with a news report about a Mr. Rowntree? What company is he affiliated with which is an arm of Vesco?

**Mr. Bray:** I don't know of any arm of IOS that Vesco is associated with. I assume you are talking about Revenue Properties, with which a Vesco associate, Mr. LeBlanc, is a principal shareholder.

**Mr. Sargent:** Oh yes. Well, what's Mr. Rowntree's connection?

**Mr. Bray:** Excuse me, Security Capital. I am wrong. I said Revenue. That is Security Capital.

**Mr. Sargent:** I wondered, yes.

**Mr. Bray:** I am sorry.

**Mr. Sargent:** What's Mr. Rowntree's connection with Vesco?

**Mr. Bray:** None that I am aware of.

**Mr. Sargent:** You say you don't know that he has any connection?

**Mr. Bray:** I answered your question a moment ago by saying that Vesco is not associated with Security Capital, nor to the best of my knowledge has he ever been an officer, director or shareholder. I think by innuendo the association is through a man called Norman LeBlanc, who is said to be a Quebec chartered accountant now living in the Bahamas who appears to have control of that. Mr. Rowntree's association is much later, after the game. He was apparently brought in fairly recently. I am not sure what his office is.

**Mr. Sargent:** Like 1971, or what?

**Mr. Bray:** Oh, like 1973.

**Mr. Sargent:** The news report last night showed Mr. Vesco hadn't been in town since 1971, didn't it?

**Mr. Bray:** I am not aware that he had.

**Mr. Sargent:** He was at the Royal York Hotel, wasn't he?

**Mr. Bray:** I am not aware that he has been but I really haven't kept track of him.

**Hon. Mr. Clement:** Wasn't there a picture in the paper of Mr. Vesco out at the Skyline Hotel last autumn with an astronaut or something? There was quite a to-do about that.



**Mr. Sargent:** It showed Johnny Flint, the bellcap at the Royal York, checking Vesco into the hotel, didn't it? I think that was it.

**Mr. Bray:** I am sorry. I don't know of the news report.

**Mr. Sargent:** On the CBC news last night.

**Mr. Bray:** Was it? I am sorry I missed that one.

**Mr. Chairman:** Mr. Lawlor, you have a question?

**Mr. Lawlor:** Which of the mutuals tied in with Fund-to-Funds, more or less by way of subsidiary or otherwise, as far as you know were incorporated in Ontario?

**Mr. Bray:** The only mutual fund company that was incorporated here is Fund-to-Funds Ltd., which I believe is an Ontario charter, and which has no offices, no books and records, no business in Ontario or anywhere else in Canada, to the best of my knowledge, and has never done business here.

**Mr. Lawlor:** It is called the Fund-to-Funds because it's a holding company for other mutual companies.

**Mr. Bray:** I think it was a fund itself. I believe it was a fund itself, with headquarters in Geneva.

**Mr. Lawlor:** Which purchased other mutuals rather actively?

**Mr. Bray:** That's quite right.

**Mr. Lawlor:** Yes.

**Mr. Bray:** When you say it was a holding company, its assets were the securities of other mutual funds.

**Mr. Lawlor:** And it is still very much extant and operative in the Bahamas, isn't it, in Nassau?

**Mr. Bray:** Fund-to-Funds?

**Mr. Lawlor:** Yes.

**Mr. Bray:** I think its present and past is fairly cloudy, if the SEC complaint is to be credited.

**Mr. Lawlor:** I picked up a brochure the other day.

**An hon. member:** Does it look like a good buy?

**Mr. Bray:** I think we have most of the latest information.

**Mr. Singer:** Maybe it's better than Kraus-Maffei?

**Mr. Chairman:** Are there any other questions on item 1?

**Mr. Lawlor:** Considering the shadow—maybe something more Stygian than a shadow—under which the whole operation sits at present, would not Ontario give consideration to cancelling that charter?

**Hon. Mr. Clement:** I am going to let the former director of the company's branch, as my deputy, answer that, because we had occasion to look into something else the other day quite unrelated, and there is a very strong principle involved here, in my assessment. When you have a company that's operating, that's current with its filings, is it incumbent upon government to step in and cancel its charter on suspicion of activities that may not be in the public interest? I just don't know. I hesitate, unless it's crystal clear, to move in that direction. Unless there is crystal clear evidence that its charter is being abused to take advantage of the public or something of that nature, I am hesitant to step in as a governmental agency and lift a charter.

**Mr. Lawlor:** Listen, we had the other day before the private bills committee a Shell corporation, which had taken out its off-shore licensing, operating basically, from all financial points of view, in Costa Rica and Venezuela. It wanted to cancel its charter because it had no longer any use for this particular jurisdiction. Ought we, as a dignified international entity, to offer ourselves as a tax haven, lending the prestige, such as it is, of the Ontario government to corporations of this particular kind? We derive absolutely no benefit—I think 10 bucks a year or something from them. They pay no taxes to this government.

We take enough umbrage with what some of our wealthier people do by going to other tax havens. We find tax havens a rather iniquitous situation in the modern world, and we ourselves proffer and are open to this particular accounting, and are held under some kind of suspicion by the SEC as to what our roles are in this particular regard. Shouldn't consideration, as a matter of policy, be given by this government to stopping that particular thing and no longer engaging in it?

**Hon. Mr. Clement:** I think one of the impacts of the amendment to the Business Corporations Act that went through fairly recently is a move in that direction, Mr. Lawlor. Are you referring to the private bill relating to Shell, Venezuela? That company, as I understand it, along with perhaps 25 others, incorporated prior to April, 1965, and had the advantage of being, under the Income Tax Act, a non-resident company. The effect of our legislation as to the holding of directors' meetings and the Canadian content of the board of directors would bring it within the purview of the federal Income Tax Act and make it, therefore, a resident company. When that became known, then I believe the import of that private bill was to allow it to emigrate to a jurisdiction with which we don't have reciprocal immigration laws insofar as corporations are concerned.

I understand we have reciprocal legislation allowing the immigration between this province and Manitoba and this province and Alberta. This company wished to emigrate to another jurisdiction in order not to be deemed a resident and wished to avoid the problems involving a new incorporation and the expense of a new incorporation. The Canadian content on the board and the holding of the directors' meetings, and so on, are eliminating this type of operation. I understand there are no assets whatsoever held by that company in Ontario.

**Mr. Lawlor:** The same, as you said, going back now to my final question, with the Fund-to-Funds; no assets here! An offshore operation; incorporated, no doubt, before 1965.

**Hon. Mr. Clement:** Yes, it only applies to the ones incorporated prior to April, 1965.

**Mr. Lawlor:** Right! So Fund-to-Funds finds itself in that particular position as far as our jurisdiction is concerned. Therefore, as far as you are concerned, you are content to let a situation like that remain extant. Any future corporations are beholden—

**Hon. Mr. Clement:** No. We have had an application, since I was minister, for the incorporation of a company which was going to own no assets in Canada. It was quite content to be taxed as a Canadian resident corporation that wished to operate completely out of North America. We refused to grant the charter for one of the reasons that you touched on. We feel if they hide behind a corporate shell with the direct or indirect blessing of a charter of this government that

we might well be lending, indirectly, some credibility to a company that may not have the interests of the public at heart, taking the world as a whole. We refused to grant the charter to that particular organization.

**Mr. Singer:** I wanted to touch on another subject in this discussion.

**Hon. Mr. Clement:** I'm sorry, but there's one thing touching on this. My executive assistant has pointed out to me that if you cancel a charter you don't really help the shareholders of the company involved. I think that is a very cogent point.

**Mr. Chairman:** Mr. Singer.

**Mr. Singer:** On the discussion about the increase in commission rates at the stock exchange.

**Hon. Mr. Clement:** Yes?

**Mr. Singer:** Apparently there are at least two views, one in favour and one opposed; discussions apparently are continuing and securities exchange hearings are going on. Does the government have any position on this?

**Hon. Mr. Clement:** We are awaiting the recommendation of the Securities Commission after the hearing is held, I believe it is on May 24. There is going to be a hearing before the Ontario Securities Commission as to rates, and as a result of whatever evidence is tendered at that hearing the Securities Commission will make recommendations.

**Mr. J. K. Young:** The hearing is on May 22.

**Mr. Singer:** Is the Securities Commission's recommendation final, or is there a ministerial or governmental review?

**Hon. Mr. Clement:** I believe their recommendation is final, isn't it?

**Mr. J. K. Young:** The power of the Securities Commission, of course, is in its recognition of the stock exchange.

**An hon. member:** How would they hold their authority over the investment dealers?

**Mr. Bray:** There is general authority to review all of the actions of the exchange.

**Mr. Singer:** Yes, I know.

**Mr. Bray:** It is under that authority that we are acting; the specific language is in section 140.



The commission may, where it appears to be in the public interest, make any direction or determination or ruling with respect to the manner in which any stock exchange in Ontario carries on business [I'm talking about 140 sub (2) now] (b) with respect to any bylaw, ruling, instruction or regulation of any such stock exchange.

It's under that power that this hearing is being convened.

**Mr. Singer:** I wonder whether this is really a complete answer, because there has been a suggestion that the brokers are, perhaps, seeking to obtain the advantage of the removal of the securities transfer tax and take it up in a manner that, perhaps, won't be felt as obviously.

There is the present inflationary trend in our economy which makes the value of shares traded larger in the total dollar amount, which would certainly increase the total amount of commissions, because as the value of the shares increases the total amount of commissions will increase. The effect of a decision made by the Securities Commission apart from government, apart from whatever budgetary policy may be existent in the mind of the Treasurer or the government as a whole—I wonder whether this kind of a decision made in isolation from government, which I gather is what the power in that section implies — is reasonable. I wonder whether or not at this point and in a matter like this, which would certainly add to the inflationary trend, the government shouldn't consider sitting in review on this kind of decision?

Presumably, you are going to tell me that the Securities Commission should be independent and certainly should be able to decide within the powers which the Legislature gives it. Your interference with this probably isn't within the four walls of that statute?

**Mr. Bray:** The appeal is to the court under the legislation.

**Mr. Singer:** Again, you have two bodies, really remote from our economy. I don't think it is a major consideration—or shouldn't be—of the Securities Commission in making various decisions, about the effect on the economy. It's more a government decision in relation to budgetary policies, economic philosophies and that sort of thing. We are going to be making the point, at least some

of us are, a little later, with insurance rates and their effect on the economy.

The point about energy rates has already been touched on, and whether or not the government shouldn't put itself four-square into this picture and tie it in with whatever economic theories you have, if you have any.

**Hon. Mr. Clement:** I suppose one could wait and see what happens. If, perchance, the decision of the Securities Commission, without any contact with government, was consistent with government's feeling on it there would be no position that the government would have to take, other than perhaps to say: "We as a government support that decision, so we endorse it."

The commission must not be unmindful of the obligation it has, not only to the large investor, the mutual fund buyer, but to the small investor who buys only a minimal number of shares going through a regular broker.

We cannot be unmindful of other markets which would offer more attractive places in which to buy large orders particularly. I think the commission will have to weigh all of those items in balance and make its approval or recommendation accordingly. It can really have a long, hard effect on the economy of Ontario.

**Mr. Singer:** It can indeed, and that is why I wonder whether or not there shouldn't be something more than your comment that it can have an effect. Should there not be the power written into the statute, on questions such as this kind which can affect the economy, that the government, which is at least politically answerable, should have the final say? I may or may not agree with you about what your final say is, but I would think that perhaps a decision like that should be reviewable. There should be, perhaps, even some onus on the government, when there is this kind of departure, to say: "Yes, it's good," or "No, it's bad."

I suspect that the chances are, no matter what the decision is, somebody is going to say in the House that the statute doesn't really require the government to take any position, which is quite true. I'm trying to get you out from under that umbrella.

**Hon. Mr. Clement:** You are saying the government should take a position?

**Mr. Singer:** Yes, I am.

**Mr. Deacon:** Further to that, isn't it important that we make it clear to the



governments of the other provinces that we are not going to allow, in effect, artificial trading advantages to shift business artificially from one market to another. At the same time we don't believe it is in the interests of their governments or of our government to have differences occur; both in security transfer taxes and in commission rates which really are not to the advantage of the ordinary little investor and, in the case of the taxes, to the advantage of the province.

It seems wrong to me that we should not make a real concerted effort under your leadership to impress upon the other governments the fact that anything artificial they do is a temporary measure only. It's foolish on their part to do them because here we are missing a good source of tax revenue in one case, and we are putting in commission rates that, possibly, could not be in the best interests of the public.

**Mr. Renwick:** Mr. Chairman, surely we don't need to pressure the government? We have to pressure the Securities Commission to be mindful of its public interest.

The fact of the matter is that the stock exchanges, as I understand it, have agreed on the common schedule of rates for the three major exchanges, and for practical purposes that means all of the trading that is going to take place. They have all also pressured the governments to get rid of the security transfer tax and we heard last week from the provincial Treasurer (Mr. White), when he cried about the volume of trading being diverted to Montreal.

Our problem now comes back to this whole question of national security registration. Should Ontario bear the brunt of having to decide—which it is, for practical purposes—the interest of the whole of the country—disguised as Ontario's interest? This is what is going to happen in these hearings.

Mr. Chairman, this is only the second time there has been a public hearing on rates, and the first one, I think it would be fair to say, with great deference to the commission, was pretty abortive. The matter was decided in a one-day sitting and, if my memory serves me correctly, certainly there was no sense of any kind of independent studies or evaluations being made with respect to just what is the public interest which is being protected. And I think—for want of a better method—Mr. Singer has a very good point, that unless there is somebody going to speak out for the public interest at the Securities Commission hearing, we are imposing an almost impossible

burden on the Ontario Securities Commission itself, under this omnibus clause, to come up with any kind of really in-depth study of whether it is in the public interest or not.

It is perfectly clear—it was perfectly clear on the New York market—that the institutional buyers forced a reduction in the big trading blocs that were traded. It is also perfectly clear that the Toronto Stock Exchange, and the other stock exchanges, have been very careful to make certain that it would appear that the small fellow is not going to get hit too hard. But the fact of the matter is that the net effect is going to be a substantial increase in revenue to the members of the exchange and the brokers around the country.

**Mr. Deacon:** Depending on the type of business they do.

**Mr. Renwick:** And there is no evidence, that we have seen, of a commensurate increase in service for the commission which is going to be received. And it raises—this isn't the time, because I don't think, with the hearing coming up that we should prejudge it—but it raises at least half a dozen major questions, only one of which I am going to ask the new minister, Mr. Chairman, if I may. Mr. Lalonde, when he was principal secretary to the Prime Minister, in addressing the North American Securities Administrators Conference in September of 1972, says, and I quote just one paragraph:

But now that we have finally reached the stage where our domestic savings are sufficient, at least in slower growth years, to meet our capital requirements—

and if I may interpose, Mr. Kimber indicated this morning that he felt our capital was becoming more and more adequate to meet our supply:

—we must determine on the means to further develop our domestic capital market.

Then he goes on in one sentence:

One necessary step is certainly the establishment of a uniform, Canada-wide system of securities and exchange regulations.

Now, I would like to know what the minister's views are, because I think it is perfectly clear that Ontario has had to bear the brunt of the cost and the responsibility for the standards of the securities markets in Canada. And it is still true, in many areas, that the other provincial commissions accept the decision of the Ontario Securities Commission.

Apart from giving up the constitutional right to regulate the securities interest, isn't it time that we either got a cost sharing arrangement with the federal government, if we are going to accept this degree of responsibility for one segment of the major financial markets in the country, or that we get away from the Can-Sec theory, and now move positively toward a national securities marketing system? I am not talking about one single market, I am saying a national securities regulatory system as such.

**Hon. Mr. Clement:** The previous chairman of the Ontario Securities Commission, Mr. Langford, submitted a proposal to the various provinces and the federal level, I think, in 1968 under the name of Can-Sec. That proposal, which I understand predominantly reflected the Securities Commission's experience in the field, was turned down.

Now, I have met with my counterpart in Quebec on two occasions and this matter has been, I would suggest, lightly discussed—no in-depth discussions of any length of time took place on this. He is playing host to a conference of provincial ministers, and the federal Consumer and Corporate Affairs minister at the end of this month in Quebec city for two days, and I anticipate this might be one of those items that is on the agenda at that time. I have not yet seen the agenda, although I am told I will have it this week.

You do run into constitutional problems. You've talked about those, but forgetting those for the terms of this discussion, my position would lead me to believe that we would have no reason to really deviate substantially from Mr. Langford's submission at that time, in view of the leadership and the experience of the Securities Commission in this province in the whole field of securities.

I will have some better feeling of it, perhaps, in two weeks time, when I return from Quebec and see just what the extent of those discussions were. I understand from my staff that a year or two ago there was a meeting of provincial ministers dealing with security transfer taxes. It was generally agreed at that time that security transfer taxes should not be abolished by any jurisdiction within the Dominion, and that a short time after that conference the Province of Quebec did move in that direction. I think it was a year ago this month that security transfer tax was formally abolished in that province. We feel we have to protect the people that trade in our markets up here. With reference to the hearings on the 24th of this month, there has

been a counsel instructed on behalf of the commission, a Mr. C. J. Stiles—

**Mr. Singer:** Is he a government employee?

**Hon. Mr. Clement:** No.

**Mr. Bray:** Yes, he is.

**Hon. Mr. Clement:** Oh, I am sorry, I thought he was not. I thought he was an independent solicitor. But he has been instructed to—

**Mr. Singer:** Who is Mr. Stiles?

**Mr. J. K. Young:** He is on the staff of the Securities Commission.

**Mr. Singer:** On the staff of the Securities Commission?

**Mr. J. K. Young:** Yes, that is right.

**Hon. Mr. Clement:** He and a financial analyst have been instructed to determine what, in their opinion, the public interest should be, and that representations will be made before the commission on the 24th.

**Mr. Singer:** Wasn't that a little peculiar—that Mr. Stiles, who is an employee of the Securities Commission, is going to make representations to the Securities Commission?

**Hon. Mr. Clement:** I understand he has been acting quite independent of the commission since he was seized of that responsibility.

**Mr. Singer:** Except that he gets his salary cheques from them.

**Hon. Mr. Clement:** He gets them, I suppose, from the Attorney General's office, to be technical about it, as of April 1; but presumably he is going to put forward the position of the public interest before the commission on the 24th.

**Mr. Singer:** That immediately raises the hackles on my neck.

**Mr. J. K. Young:** Well behind Mr. Stiles, of course, are the facilities of the Ontario government, with regard to financial background, and these will be available to him. He is not alone on this.

**Mr. Singer:** No, he may not be alone, but still he is giving an opinion to the body that employs him. I am quite sure that Mr. Stiles, whom I don't know, is a very honourable man and will give this opinion as he sees it, but he's giving his opinion to his employers. And apparently the Securities Commission is



going to be judge and jury, and also evidence gatherer; and—

**Hon. Mr. Clement:** But it has a great obligation, of course, to the public.

**Mr. Singer:** Yes it does; yes it does! It would seem to me that your original thought was a much better one. If Mr. Stiles had been brought in from outside, or had even come from another department of government, there would be a remoteness from his immediate employment to the people he is giving an opinion to.

**Hon. Mr. Clement:** Apparently he is the one who is seized with the responsibility of making these submissions on May 24.

**Mr. Singer:** I find it a bit unusual, and in principle not desirable.

**Mr. Chairman:** Any further questions?

**Mr. Singer:** Yes, I have some more.

**Mr. Chairman:** Carry on.

**Mr. Singer:** This is the vote under which we deal with insurance, isn't it?

**Hon. Mr. Clement:** No.

**Mr. Singer:** No? Where do we deal with this?

**Mr. J. K. Young:** Under this vote, but not item 1.

**Hon. Mr. Clement:** Item 3.

**Mr. Singer:** Oh, under financial institutions?

**Hon. Mr. Clement:** Yes, right. We're just dealing with securities right now.

**Mr. Singer:** All right!

**Mr. Chairman:** Mr. Lawlor.

**Mr. Lawlor:** I am going to make an apologetic statement for a change.

**An hon. member:** Hurrah. That'll be refreshing.

**Mr. Chairman:** The Chair will receive that.

**Mr. Lawlor:** The lord and master over any other particular subject, but not in securities there! We have a tendency—

**Hon. Mr. Clement:** Has this to do with the Stygian shadow?

**Mr. Lawlor:** Well, Stygian, yes. In this particular regard is it true—from my reading I understand this—that for instance in the

area of these cost differentials to small investors and so on, and the ongoing attrition on the part of the larger ones to get a lower rate, somewhat like Hydro does with respect to bulk purchases—which I find to be very questionable and unpalatable with respect to the investing public. Right off the bat, as a point of issue, has it not come about that partially, over the years, the trust companies and the trust corporations in the United States and in Canada, and the loan corporations and banking too, have wanted to become active participants in the stock market, in some form of membership or quasi-membership so that they may do their own trading, that they may act on their own portfolios and what not, and avoid the necessity of going through the investment broker-dealer, whoever it may be, in the system? This has been resisted strenuously all along the line in both the United States and in Canada, and in this jurisdiction, but as a way of softening up and giving in, in part at least to what's happening, these new rates have come in on the New York market, which kind of twists our arm a bit. But what I was wanting was some background information as to whether what I am saying under this head is correct or not?

**Hon. Mr. Clement:** I understand—

**Mr. Chairman:** Excuse me, is that the apologetic statement, Mr. Lawlor, that you referred to a moment ago?

**Mr. Lawlor:** I don't know! You see, I just don't have the feel of what this—

**Mr. Chairman:** Maybe you'd comment on that statement, Mr. Minister?

**Mr. Singer:** As to whether it is an apology or not?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** There is a difference between an apologetic statement and an apology. I'm not apologetising.

**Hon. Mr. Clement:** I understand that there has been discussion in depth along the lines you have touched upon in the United States, but that as of this date no trust or loan company has a seat on the exchange or is in a position to act as its own broker in the purchase of securities for its own purposes.

**Mr. Lawlor:** Are all members of our exchange obliged to be completely independent agents vis-à-vis the other financial corporations in the province?



**Hon. Mr. Clement:** You mean, are our brokers?

**Mr. Lawlor:** Yes, could they be subsidiaries of a banking institution, in fact?

**Hon. Mr. Clement:** Oh, they are all independent!

**Mr. Lawlor:** Yes, they have to be independent; and this is closely canvassed?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** By the way, another area where I'd like to know whether it's closely canvassed is, are members of the commission staff, particularly staff which comes into possession of confidential information, necessarily excluded from participating in trading on the stock exchange?

**Hon. Mr. Clement:** Yes, they surely are. All the members of the commission are certainly excluded.

**Mr. Lawlor:** Yes, I am talking about staff too.

**Hon. Mr. Clement:** You mean secretaries and clerks?

**Mr. Lawlor:** No, I am talking about people, as I mentioned, who have access to inside information.

**Hon. Mr. Clement:** I don't know how far down that ruling runs.

**Mr. Bray:** We have an insider trading reporting system internally. I've forgotten what the time limit is, but there is a time limit in which you may not trade after an issue has gone into the marketplace. In other words, the issue has to be all completed; you can't trade in any issue you are dealing in, that's for sure. And you may not trade for a certain length of time after the distribution is completed. There is an insider trading reporting system internally. It is a matter of policy and not law.

**Mr. Lawlor:** Are there any regulations on it?

**Mr. Bray:** Not legal, but de facto there are.

**Mr. Lawlor:** I have many other questions, but not under this topic.

**Mr. Chairman:** Any further questions on item 1?

**Mr. Renwick:** Mr. Chairman, I have two or three other matters.

The minister is rather enamoured with this concept of the self-governing, self-disciplining association in various areas in his ministry. I think that there has been substantial upgrading and improvement in the Securities Commission and in the Toronto Stock Exchange, in the modernizing of their function and their service and their skill. Yet we hear very little about the broker-dealers' association and how it's getting along, and whether it too is keeping pace with the responsibilities which were originally imposed upon it, going back now 20-odd years.

**Mr. Bray:** To 1946.

**Mr. Renwick:** Well, 25 years then. I would like to ask Mr. Bray specifically whether it is now not time that, with the co-operation of the broker-dealers, a good hard look be taken at the functions of that association to see whether or not self-disciplinary activities in the public interest are being discharged in the way in which they were originally conceived, and whether or not they have shown the capacity to effectively regulate their share of the industry? It's something which, strangely enough, had there been some innovative activities taking place, we probably would have heard about them. But there is very little reference that you see to the broker-dealers' association, except in the decisions and rulings of either the director or the commission from time to time.

**Mr. Chairman:** Mr. Bray.

**Mr. Bray:** Mr. Chairman, the broker-dealers' association is almost—it's not fair to say defunct, but almost defunct is not too strong a statement. Back in the halcyon days when the necessity for it was more apparent, there were over 200 broker-dealers. There are now something in the order of 15 or 17. As a self-regulatory, self-sustaining organization, they really are not functioning too well, and for practical, pragmatic purposes the only thing they have of their own is a separate contingency trust fund. They have a general counsel, who is a full-time employee, but I can't recall any recent disciplinary action. I think any disciplinary action that's been taken against those 15 or 16 broker-dealers in recent days, substantially has been taken by the commission.

**Mr. Renwick:** Then I would suggest that, having regard to the origin of the broker-dealers' association and that it was designed to provide a self-disciplinary group that would act in the public interest as well as disciplining its own association, you might

very seriously take a look at winding the whole thing up and getting it straightened out, not having it as an anachronism, with extensive powers actually, as an association, as if it were a viable association.

For what it's worth, I guess I've found out all I wanted to know about it, but I would suggest in the light of those comments that consideration be given to discussing with them a winding up of the association or the revitalization of it somehow.

**Mr. Bray:** It has come up from time to time. The discussions have gone the other way, as a matter of fact, about how long they are going to last.

**Mr. Chairman:** Do you have further questions, Mr. Renwick?

**Mr. Renwick:** Yes. I'd like to ask the minister, or Mr. Bray, about this dual licensing system for life insurance salesmen who are selling the mutual funds. How is that system working? Is the commission satisfied now with the way in which it is operating?

**Mr. Bray:** As far as we are concerned we have had no problems with it. Mr. Ross, have you had any complaints?

**Mr. Renwick:** It's a dual licensing system, is it, that you are a licensed—

**Mr. Bray:** As an insurance salesman and as a mutual fund salesman with the same general organization. He is limited to mutual funds.

**Mr. Renwick:** That is, he is a security salesman on the one hand, and then under the Superintendent of Insurance as a life insurance salesman?

**Mr. Bray:** That is right.

**Mr. Renwick:** And there appear to have been no problems?

**Mr. Bray:** There have been no problems from our point of view.

**Mr. Renwick:** Mr. Chairman, would Mr. Bray comment upon whether these scholarship plans that flourished for a while are being satisfactorily dealt with?

**Mr. Bray:** They seem to have lost their glamour, and I think we have only one left active now.

**Mr. Renwick:** Is that all?

**Mr. Bray:** That's right. The other recently active one, the University Scholarship Plan,

has now ceased to enroll new students and is being administered, I am told, by the Mont-real Trust.

**Mr. Lawlor:** Pardon me for a moment. How many insurance salesmen are acting as mutual fund salesmen?

**Mr. Bray:** I am sorry. I can't answer that.

**Hon. Mr. Clement:** Maybe Mr. Grundy might have some idea. He is here with us. Have you any idea, Mr. Grundy, as to the number of licensed life insurance salesmen who are licensed to sell mutual funds?

**Mr. G. E. Grundy** (Superintendent of Insurance): I would say approximately 1,000, but I don't have those figures with me. I will check on it, though, and get a more accurate figure.

**Hon. Mr. Clement:** We'll get those for the member.

**Mr. Renwick:** I'd like to ask one more question. Do they come primarily as mutual fund salesmen and get licensed as life insurance salesmen, or do they originate in the life insurance industry and have this added as an adjunct to meet the requirements of their company?

**Mr. Bray:** Well, so far as we are concerned, they are mutual fund salesmen who go to Mr. Grundy and obtain licences as insurance salesmen—but they are fully qualified in both areas. We know them as mutual fund salesmen, period.

**Mr. Chairman:** Any further questions on item 1?

**Mr. Lawlor:** Just a couple of questions—again to stress my naïveté. We were talking previously about trust companies wishing to become brokers in effect and to deal with their own stock; the brokerage industry has excluded them actively thus far, but they themselves may trade in stock. I know this is a fundamental issue—it has been raised throughout the history of stock brokerage—but isn't there a fundamental conflict of interest in these people investing in their own portfolios, supposedly not in competition with their clientele, and those whose interests they are supposed to be serving and so on?

Isn't the chief cause of dislocations in the stock market precisely this form of dealing, when a brokerage sells short and then buys on a rising market and all this nonsense? In short, ought they not to be restricted to dealing as brokers, period, and not permitted to serve their own self-interest in this regard?

**Mr. Bray:** Mr. Chairman, without being able to specifically itemize these for you, a number of years ago there were a good many changes effected by the Toronto Stock Exchange to deal with just the kinds of harm that are inherent in your question. They are not permitted to go into the market and trade against their clients; the floor trader must execute the public order first. These are things that are actually being enforced.

On occasion we do investigate. On occasion we do go in and examine the trading pattern of particular stocks, and of course one of the things we are looking for is insider trading of the kind you are talking about, not necessarily legal insider trading, but insider trading by people associated with a particular stock. Certainly if we were to come across anything such as you described, it would be a matter for discipline—and it is just not happening in that way.

**Mr. Singer:** It was happening to quite an extent. I complained about this several times.

**Mr. Bray:** The royal commission on Windfall commented on this. There was a substantial amount of evidence came forward before that commission about a floor trader trading for his own account and against the interests of the public client, and that sort of thing.

As an aside, without any comment, you will have noticed recently that the Toronto Stock Exchange—and the other exchanges have followed this—no longer allows a discount commission to members of the firm in their own trading. I think they have waived this more as evidence of good faith in relation to their clients and to try to allay the fears that you express. But there were a considerable number of changes in the trading rules following the Windfall report, because of the kind of thing that you are concerned about.

**Mr. Singer:** Well, is there an absolute prohibition?

**Mr. Bray:** It is not an absolute prohibition, no; but the public clients must be dealt with first—there is no question about that. Mr. Deacon can probably speak more eloquently about that than I can.

**Mr. Deacon:** Yes. I was just going to say you have to put “pro” on your order when you enter an order, and that definitely has to be treated differently so that all public orders are put first.

**Mr. Bray:** We are talking about family orders too—the sort of family trust thing and all the varieties of permutations and combinations of interest that a professional can have.

**Mr. Chairman:** Shall item 1 carry?

**Mr. Lawlor:** I spent Saturday afternoon reading “The Great Wall Street Swindle.” I always have great reservations about books with titles like that, telling you how to make a million and all those muckraking things. Have you anything comparable to what is called a specialist on the New York Stock Exchange?

**Mr. Bray:** No, we haven’t.

**Mr. Lawlor:** His main thrust was directed against such an individual who took orders from other brokers and—

**Mr. Bray:** I read the first 100 pages of the book that you are talking about.

**Mr. Chairman:** That is not Mr. Shulman’s book, is it?

**Mr. Bray:** No, it is an American book.

**Mr. Lawlor:** Is it permissible for brokers to be directors of corporations in whose stock they deal directly or indirectly?

**Mr. Bray:** From our point of view, the answer to that is yes—but we have a caution. One of these policy statements indicates the conflict of interest problem, Mr. Lawlor.

**Mr. Lawlor:** So they are aware of the conflict of interest?

**Mr. Bray:** The possibility of conflict has been brought to their attention.

**Mr. Lawlor:** There is no sanction for its ignorance?

**Mr. Bray:** If it were used, yes there would be a sanction.

**Mr. Lawlor:** As an insider again?

**Mr. Bray:** We are talking about the conflict of interest between the shareholders of the company on the one hand and the clients of the firm on the other. Yes, I think there would be a matter for sanction.

**Mr. Chairman:** Shall item 1 carry?

**Mr. Lawlor:** I have one further question on accounting practices within the commission. What is the present policy? I know there were amendments to the Real Estate and Business Brokers Act and what not with



respect to consolidated balance sheets? Do you insist upon effective control as the norm for the consolidations?

**Mr. Bray:** I cannot answer with certainty. I think Mr. Ross is better qualified to answer than I am, but I understand there must be actual control—I am talking about legal control—

**Mr. Lawlor:** That's 51 per cent, of course.

**Mr. Bray:** —before there is an obligation to consolidate. I think that is the standard laid down by the Canadian Institute of Chartered Accountants, which we have accepted as one of the generally accepted accounting principles.

**Mr. Lawlor:** Well, I have an article here from the Financial Post—I don't know what the date of it is; 1893 I suspect—which says:

Except in special cases, consolidation has been normal for companies with more than 50 per cent, but the committee believes also that some companies effectively controlled would be more fairly represented by consolidation.

The draft [this is from the chartered accountants] comes out heavily in favour of consolidation so that the accounts present the results of the total economic unit of the parent company and its subordinate companies.

In other words, what you are saying is that this, whatever the date of it may have been, has not really been effectuated.

**Mr. Bray:** I think Mr. Ross, who knows a little bit about financial analysis, might like to help us on this.

**Mr. Ross:** Well, there are two things: The accounting profession generally believes in consolidation, and the academic accountants believe that you should consolidate even if you have as little as one per cent of a company, which makes it rather an academic exercise. What has happened, however, as a result of pressure developed in the United States, and which has become an accepted accounting principle in the United States, is that if you have got more than 20 per cent of a company, you do what is called bringing in—not by consolidation but by stating your equity interest in the company over which you have effective control. They say that, as a general rule, 20 per cent is effective control. Even in situations where two or three companies, through some sort of external agreement, together have acquired say, 19 per cent or 20 per cent, and somebody

else has 21 per cent, the three of them would each be required to use equity accounting to take in the earnings and their share of the assets of the company.

But that's not the same thing as a consolidation?

**Mr. Lawlor:** But this is a notation, so to speak, of the balance sheet itself, indicating the equity holdings in other corporations of the asset value. Is that what they did—control one line for consolidation?

**Mr. Ross:** Yes. It's called one-line consolidation.

**Mr. Chairman:** Does item 1 carry?

Item 1 agreed to.

Item 2, Pension Plans.

**Mr. Deacon:** Mr. Chairman, one of the things I wanted to find out was what was being done to bring in compulsory investing on a basis which would improve the portability of plans and ensure there's not quite so many knots or ropes tied around employees which almost force them to continue their employment.

There is a greater need for portability than ever before because of the nature of employment opportunities, the changing nature of the times; and I'd like to see something which would increase the portability by provincial legislation.

I was wondering what has been done to protect pension plans in the winding up of companies so employees don't suddenly find themselves left with nothing; that there's portability of benefits; that residual benefits can be passed along from one plan to another—there may be even provision for a temporary resting place in between jobs.

**Mr. Chairman:** Would you comment on that, Mr. Minister?

**Hon. Mr. Clement:** Yes, I have here Mr. Wells Bentley and Mr. Pat Neale, both directors of the pension commission; and I think that I'll let Mr. Bentley comment on your question, Mr. Deacon. There may be a question that comes to your mind about a Quebec pension plan—the name escapes me—that recently ran into some difficulty. It had a substantial number of employees—11 of whom, I believe, were resident in Ontario and thus were affected by termination of this pension plan.

Mr. Bentley, I'll ask you to comment on Mr. Deacon's question, if you will?

**Mr. J. W. Bentley** (Superintendent of Pensions): Mr. Chairman, Mr. Minister, members: With respect to the preservation of entitlement—or portability is the usual word adopted to mean the same thing—the Pension Commission of Ontario is presently studying submissions it has received in response to the inquiries made to employers, employees, consulting firms, and so forth, through the so-called green paper that was issued last September by the commission.

I think, as you would be aware, the study is not just something for Ontario. There are other provinces that have substantially similar legislation—Quebec, Alberta, Saskatchewan—and the federal government. This is a joint effort, Mr. Deacon.

**Mr. Deacon:** Very credibly so.

**Mr. Bentley:** And we are doing our best to honestly put something together that we can recommend to our respective governments.

**Mr. Deacon:** How long do you feel this study will take—how long before we can expect some sort of legislation?

**Mr. Bentley:** I would believe that the commission, that is the Pension Commission of Ontario, has pretty well completed its study. I'm in the process of trying to put together reports for consideration of the other jurisdictions now. They have, as well, done their own studies. Hopefully, we will be able to get together within a matter of months and try to arrive at some consensus.

You would appreciate, Mr. Deacon, that it would be silly for Ontario to do one thing and Quebec another, and so forth.

**Mr. Deacon:** I realize that.

**Mr. Bentley:** I just can't say. I naturally am an optimist. I hope it can happen very quickly, but I just have no idea. It might be six months before we would be prepared to make recommendations to our respective ministers.

**Mr. Chairman:** Mr. Renwick.

**Mr. Renwick:** Mr. Chairman, I would like to raise with Mr. Bentley, without the emotional overtones that are contained in the correspondence, the exchanges of correspondence between the lawyers in Vancouver for Mr. Ashley, who was formerly a long-term employee of Pitney-Bowes.

Mr. Chairman, this is something interesting. I think perhaps the minister might be interested in the net effect of the Pension

Benefits Act insofar as information to a former employee is concerned.

This gentleman, Mr. Ashley, was a 24-year employee of Pitney-Bowes of Canada. He was retired on Oct. 31, 1969. He was advised of the pension benefits to which he would be entitled by the company. He then apparently consulted a lawyer in Vancouver to find out whether or not he was getting all of the pension that he was entitled to get, having regard to what he had heard were amendments to the Pitney-Bowes pension plan.

So the lawyer, I gather, wrote to the company and asked for a copy of the amendments; and the company replied and said that there was no obligation to give the copies to him—or a copy of the plan. He also then wrote to the Pension Commission of Ontario and received the same comments. So, if I may, in my own way express the three-paragraph conclusion that I came to about this strange situation. I said:

I have perused the correspondence about the Pitney-Bowes pension plan and it seems ridiculous, but it is true, that apparently under the Pension Benefits Act, as I read it, an employee, during the course of his employment while he is a member of the plan is only entitled to a written explanation and not to a copy of the plan.

Equally ridiculous is the provision which permits the plan to determine when a person ceases to be a member of the plan. Common sense would indicate that a person continues to be a member of the plan as long as he was either in the employ of the company and contributing to the plan, or upon retirement, and thereafter so long as he was receiving benefits from the plan.

Unfortunately, the Act is silent about that and Pitney-Bowes has determined in their pension plan agreement that when you terminate your employment you cease to be a member of the plan. So that once you enter upon your retirement you're not even entitled to the written explanation which the Act requires as one of the contractual provisions.

Equally ridiculous is that the Pension Commission of Ontario is not required to provide copies of the plan or, indeed, to make them available for inspection by anyone who believes himself to be entitled to examine them, which may be understandable, but it is apparently not even obligated to allow anybody to inspect their files to review the contents of the plan.



The result is that the fact that Mr. Ashley is in Vancouver is irrelevant to the comment. The fact of the matter is that a person in Ontario is not entitled to get a copy of the plan. He is solely in the hands of the company, even though he is a contributor to the plan, in determining what his rights are; and he cannot have recourse to the Pensions Commission of Ontario to find out the particulars of the plan.

Since there is obvious confusion as to whether or not a person continues to be a member of the plan after he has retired, and during the course of the time that he's receiving benefits under the plan, it's obviously open to the companies to decide that you cease to be a member of the plan at the time that you cease to be in their employ.

You have, therefore, very carefully restricted the ability of anyone to get the kind of information which could satisfy him if there were some question about his entitlement.

I would think that perhaps the only way that one could deal with such a situation under the Act as it's presently drafted would be to have the matter decided in court.

I am not raising this from the point of view of being critical of Mr. Bentley or of the way they have administered their Act, despite the fact that there are some highly emotional overtones involved in the correspondence between Vancouver and Toronto.

I just wanted to draw to your attention that it seems to me to be quite ridiculous that a person is not entitled to go to the Pension Commission of Ontario—not necessarily to get a copy, that may be an expensive operation—but to examine the terms of the plan and make notes of the plan and any amendments that are filed with it. Then he could determine with the advice of a lawyer or accountant or an actuary—whatever he wants to do—whether or not he is getting his entitlement.

I think it is equally ridiculous that in this day and age, when printing costs are not all that expensive and pension plans can, in fact, be printed in booklet form very readily, that our Pension Act simply provides that the only thing you are entitled to get is a written explanation from your employer of what the plan says.

It would seem to me that if those comments of mine have any merit that the Act should be looked at from the point of view of amending it to see whether or not a person who is an employee of a company should be able, during his employment and during his retirement, to be satisfied that he is getting

what he is entitled to. The only way I think that can be settled is for him to have access to the basic documents if he has been involved in the pension plan so that he can take whatever advice he sees fit to take about it. I would appreciate your views on this.

**Hon. Mr. Clement:** Your point is well taken. I agree it seems unusual, in this day of great onus of disclosure on everyone; and we have been talking about disclosure for a few hours now as it relates to the securities market. Here we have something in which a man has very definite financial interest, and he is not able to find out what entitlement he has.

It is my understanding that the commission is genuinely looking into this with the hope of bringing forward legislation. It would seem to me, Mr. Renwick, that it would release a tremendous burden on the Pension Commission to put the onus on the company as opposed to having the onus on the commission with whom the master plan is filed. I think the worker could care less as long as there is somewhere that he can find out the matters to which he has become entitled.

**Mr. Renwick:** I agree. I am not suggesting what the solution should be. It may well be that it should be possible in the Pension Commission of Ontario, without requiring them to supply copies, that at least they have a public office where a person could go and say: "I would like to look."

**Hon. Mr. Clement:** Well, some companies do that, I suppose, as a matter of principle. When the employee starts and is taken on as a permanent employee he is given a booklet highlighting the plan and given a certificate as to his own participation in it.

**Mr. Renwick:** Well, so long as I can assure Mr. Harry Rankin in Vancouver—who undoubtedly is a supporter of the New Democratic Party—

**Hon. Mr. Clement:** Oh well, I am taking back everything I said then.

**Mr. Renwick:**—who is the solicitor involved in this matter, that it is being attended to and that in the fullness of time his client will be able to get particulars of the pension plan, then I will be happy.

**Mr. Chairman:** The minister has undertaken to deal with that in an open and even-handed way, so I suppose we could go to Mr. Good.



**Hon. Mr. Clement:** We are wondering if Mr. Rankin would support anybody who assists him!

**Mr. Renwick:** I don't think he would get Mr. Neale's vote.

**Mr. Chairman:** I don't think there should be any incentive tied in with the discharge of the minister's responsibilities.

**Mr. E. R. Good (Waterloo North):** Surely there would be an obligation—say when a new pension is being negotiated by a union or changes in the pension plan—for the company to provide employees with—

**Mr. Renwick:** There is no obligation on the company to do anything, other than to provide an employee with a written explanation to each member of the plan of the terms and conditions of the plan and amendments thereto applicable to him, together with an explanation of the rights and duties of the employee with reference to benefits available to him under the terms of the plan, and such other information as may be prescribed by the regulations. And I don't think there is any other information prescribed by regulation.

**Mr. Chairman:** I think Mr. Bentley could probably throw some light on that. Mr. Bentley?

**Mr. Good:** How would a union man know what type of plan he was voting on if they were negotiating a new plan?

**Mr. Bentley:** Mr. Chairman, this is a point that has been raised particularly in the last year and it is something to which the commission has given considerable study. We are in the position now of dealing with the other jurisdictions to set out some of the principles in the legislation in the various jurisdictions. Hopefully there will be recommendations to our respective governments to change this particular section of the Act. It now says the employer shall contractually provide a written explanation. This whole matter is being looked at and I think the recommendations will go a long way toward meeting some of the situations that we have seen develop in the last while.

**Mr. Chairman:** Further questions on item 2? Mr. Lawlor?

**Mr. Lawlor:** The question I would like to ask is where was this vote before? I don't see it among the votes for last year. In which ministry was it? I have looked at the estimates for last year—

**Mr. Chairman:** Treasury.

**Mr. Lawlor:** It was in Treasury. It has been switched over to this area.

**Mr. Chairman:** From Treasury, yes!

**Mr. Lawlor:** Right! There are all kinds of plans and the basic one—I wrote them down—the unit benefit plan, money purchase plans, flat benefit plans, deferred profit sharing plans, and a whole host of permutations and combinations that go on ad nauseam it seems.

With that in mind, have you got any publication, or anything in the Ontario government which would clue in members of the House? A booklet as to the nature of the plans and some examples as to how they operate and that sort of thing?

**Mr. Bentley:** No, we don't. Not as to the nature of the plan or that kind of a booklet, no. Quite frankly, it hasn't even occurred to us. It is common usage among the people that we deal with, and I guess it just never occurred to us.

**Mr. Lawlor:** It is such an esoteric subject that it is beyond the pale. Well, I would like to see something made available to the public as to how they operate. There are terms and conditions in the Pensions Benefit Act, but I would like to see in common language a survey of the Pension Commission, its operations, what kind of work it does and what kind of thing it handles.

**Hon. Mr. Clement:** You have demonstrated to me how the public must feel when it comes to matters pertaining to law that are presumably understood by lawyers. This might well be one of those areas that we might touch upon in a brochure or booklet—just a short explanatory brochure as to just what these terms mean and how one avails himself of the advantages or disadvantages of any of these plans. Quite frankly, you astound me when you start reading these, because I am not familiar with them at all.

**Mr. Lawlor:** That is right. You see you can read great tomes on pension plans, but this is on a world scale. I am only interested at the moment in the Ontario situation. I haven't found anything available. The annual reports are fine insofar as they go, but they certainly don't get into the interstices of what they are doing. It is all stuff on the surface.

**Hon. Mr. Clement:** I am just wondering, in the meantime, Mr. Bentley, if there is a publication available—not one that we have particularly, as a government publication—

but is there one available where someone who has demonstrated interest could go and obtain a booklet?

**Mr. Bentley:** May I speak to this?

**Hon. Mr. Clement:** Yes.

**Mr. Bentley:** A number of years ago, in conjunction with the other jurisdictions, Mr. Lawlor, and with what is now called Statistics Canada, we worked out an arrangement whereby DBS is really the statistical arm of all of the jurisdictions. In other words, all of the raw data flows into the various jurisdictions. We code it in a specific way and it is supplied to DBS.

It means that DBS doesn't have to go back to the employer and ask a lot of further questions—you know, have another form filled out and so on. In conjunction with the Dominion government we have been able to have this produced and the technical terms that we use—

**Mr. Lawlor:** Highly statistical.

**Mr. Bentley:** —are all contained in a glossary in the back of the report. I'd be very pleased to provide one of these for you.

**Mr. Lawlor:** Well, that's very kind of you and I would accept that offer.

At the same time, what I'm interested in—that's for experts, that's for people who are digging out material. It seems to me, for the man on the street, or even people who are vitally interested in this kind of thing, the trade unions and others, the knowledge of how pension plans work—what pension plans are available, what you approve and disapprove, the run of the mill pension plan, you have your criteria, you have your way of dealing with them—all that should be known in a wider way than it is presently.

Because my feeling is that there are very grave defects in the pension schemes and pension plans in the province, some of which have already been pointed out today. They go on, I think, because of public ignorance, from generation to generation, as I will try to point out in a few moments' time. Well, so much for that.

In the past fiscal year how many registered pension plans have you had in the department—new ones?

**Mr. Bentley:** There are approximately 500 new plans established every year.

**Mr. Lawlor:** Can you give an idea then, what are the sum total plans that are presently on your register?

**Hon. Mr. Clement:** About 9,000.

**Mr. Bentley:** Active plans, just about 8,000 active plans.

Now, Mr. Lawlor, that doesn't cover all of them, because there are a number of plans, for instance, that are supervised under the interprovincial agreements, supervised by the Quebec Pension Board, where there are members in Ontario; but the plurality is in the Province of Quebec.

Similarly, arrangements exist with Alberta and Saskatchewan, whereby a number of plans, which are national in scope, may be supervised and are supervised by those jurisdictions with respect to members in Ontario. Similarly, we supervise plans on behalf of the Province of Quebec, the Province of Alberta and the Province of Saskatchewan.

**Mr. Lawlor:** And you work jointly with the federal pensions for the employees in Ontario.

**Mr. Bentley:** That's correct.

**Mr. Lawlor:** Do they file the documents with you, too? That is the pension plan itself, even if they are extra-jurisdictional?

**Mr. Bentley:** No, no! They file only with one jurisdiction.

**Mr. Lawlor:** I see. And you have, I trust, some kind of control. There must be some trusteeship control over the investment of the funds arising out of those pension plans. Do you exercise any role in that regard?

**Mr. Bentley:** A limited role in this way—the fund is required to report its assets to us at least every third year.

Now, I'm talking only of trustee plans or segregated funds under insurance companies. The statement of assets is to be filed with us at least every third year. This is in conjunction with the valuation reports supplied by the actuary, and this gives us an opportunity to determine whether or not, in our opinion, the funding and so on of the plan is based on reasonable assumptions, whether the values placed on the investments are based on reasonable assumptions.

**Mr. Lawlor:** Could you give this committee some notion as to the sum total of moneys invested in such plans in this province?

**Mr. Bentley:** Not by the province, because there are, as you know, a great number of very large national plans whose funds would be for employees located anywhere in Canada, and we don't have the breakdown.



There's no way of getting the breakdown by province in that respect.

**Mr. Renwick:** What would it be federally?

**Mr. Bentley:** In Canada as a whole, at the end of 1971, according to the Dominion Bureau of Statistics, in trusted plans alone, better than \$12.5 billion.

**Mr. Singer:** That's more than you spend in a year and a half.

**Mr. Lawlor:** Just concentrating on the plans registered in your jurisdiction, can you give a sum total?

**Mr. Bentley:** No, there is no way. We're trying to work out the statistics for that now, but—

**Mr. Lawlor:** You are working on that?

**Mr. Bentley:** We're working on that now. We went for the non-financial statistics first and are trying to get the financial statistics put on the same basis in the future.

**Mr. Lawlor:** Many of these pension plans are company pension plans, and it's senior executives and what not of the corporation involved that do the investment of the funds. Is that correct?

**Mr. Bentley:** In some plans—

**Mr. Lawlor:** Sounds like a cross-examination, I didn't mean it that way.

**Mr. Bentley:** In some plans this is correct, but for the majority of plans the investments are held—by far the majority of plans, and by far the greatest amount of money is held by corporate trustees. There are a number of very large plans that are held under individual trustees, where the investments are made by the individual trustees, in accordance with a proper trust indenture. And the trust indenture must contain the proper provisions respecting the investments for pension funds.

**Mr. Lawlor:** The repositories of the funds then, to a substantial degree, would be actual trust companies?

**Mr. Bentley:** In most cases, actual trust companies.

**Mr. Lawlor:** And the employee, the one contributing to the fund, has no role nor determination as to how that money is invested. That's wholly in terms of the trust indenture and the corporate trustees.

**Mr. Bentley:** That's correct.

**Mr. Lawlor:** Did you not think, Mr. Minister, it's not his problem any more? That's the role of those who are contributing to the fund, that they had a voice, a say, in how those funds are disposed of?

**Hon. Mr. Clement:** Well, that would depend on the expertise of the employee involved. I don't think you could broadly say that every employee—that it should be on a popularity poll. You know, all in favour of going into Dow Chemical hold up your hands; or all in favour of holding first mortgages. I think they have to rely pretty much on the expertise of the actuaries and the people who are giving them the investment advice.

**Mr. Lawlor:** You do? I don't.

**Hon. Mr. Clement:** Because I've acted for so many executors and trustees that thought the best thing they could put the money in would be their hotel, which they're just starting.

**Mr. Lawlor:** Well, it should be, in my opinion, in the area of—

**Hon. Mr. Clement:** Actually, it wasn't a bad idea, either.

**Mr. Lawlor:** Employees, most of them, are not sophisticated investors, admittedly. I suspect they could become so, or as sophisticated as most, in pretty good order, if they sat on the boards and had a role to play.

**Hon. Mr. Clement:** Oh, no! Yes, all right. I'm not arguing with you on that. I thought you were of the opinion that maybe each individual employee should have some input into it.

**Mr. Lawlor:** Oh, no, no! I'm not suggesting that. They have their appointee who can handle the matter.

I'm looking at a Jack MacArthur article of a long time ago. He talks about the rickety pension structure in Ontario, and that nevertheless this is probably the most expansive, and until fairly recently at least probably the largest pool of moneys in the country. And until recently at least, too, it was largely invested outside of the country.

But in any event it was done most expertly, as far as I was concerned, and the defects, which they reveal on a study made by MacArthur and a fellow by the name of Roberts, in Cochrane, was the immense secrecy about how much money is invested. Nowhere across the whole Canadian financial structure are facts harder to come by.



May I say, this article is back in 1968. My first year in the House. I cut it out and noticed it the other night.

**Hon. Mr. Clement:** Still getting mileage out of it.

**Mr. Lawlor:** Not a thing has been done. Yet the Treasury estimates are so monumental that you really can't get to this sort of thing.

**Mr. Chairman:** They've tried since 1968.

**Mr. Lawlor:** Right. Absolutely nothing has been done. There is no longer any point in saying—

**Mr. T. P. Reid (Rainy River):** Waste not, want not!

**Mr. Lawlor:** —about the fullness of time and what not. It's been tried, tested and proved defunct. The government doesn't even read MacArthur's articles, much less listen to people like me. MacArthur says:

There is a considerable conservatism and lack of imagination in the investment.

So much so, by and large, that I suspect that most of the pension fund trusts are invested in mutual funds in order to get some kind of dynamism into the operation. What I wanted to get to is this part of the article:

With the control of these funds in many cases by company executives, they may face real conflicts of interest. They must act in the interests of the contributors in administering the funds, but in what, in doing so, might seem not to be in the interests of the company involved, their employer. Given the secrecy surrounding these decisions, there is all the more reason to wonder.

Is that not true, Mr. Minister?

**Hon. Mr. Clement:** I'm wondering if that article is not more of a critique of the approved investments under the Trustee Act than anything else. It's all right to condemn it for being conservative in nature when the market is going up, but if the market is swinging in the other direction, we may be very thankful they are conservative in nature with, I presume, a small "c".

**Mr. Reid:** It's a bad term under any condition.

**Hon. Mr. Clement:** It has been pointed out to me that most of the trustees' compensation is tied to performance. That may have something to do with it.

**Mr. Lawlor:** There is a way of rectifying the secrecy and possibly the conservatism, and

in any event the business of conflicts of interest built right into the way in which these funds are administered. Surely that must be obvious.

That is something that you have to obviate all the way along. That's what the security legislation is all about. But in this particular area it's never been touched. It's fallow ground.

It's a kind of a hoarding in both senses of the word, hiding behind a fence the operations of these enormous sums of money which can be used beneficially in the Canadian economy, which has been pointed out time and again.

The kind of people that are presently in control have varied, terminate objectives in mind. I wonder to what extent these funds are available for public housing rather than equities and growth funds. It seems to me that we just don't know.

And why don't we know? Isn't it a part of the public realm? Ought you not to make incisive moves into the area of pension funds? Get something above board. Start, at least in a minatory way, some restructuring of the thing. It has lain like this for a long time.

You're an innovative minister. You're a man that's plugging ahead. All the rest of them have pretty well gone dead because of new blood in the cabinet.

**Hon. Mr. Clement:** I'm awfully close behind.

**Mr. Lawlor:** Well, don't give up the ghost just yet. There is a job to be done in this field.

**Hon. Mr. Clement:** Mr. Lawlor, I would like to ask Mr. Bentley if he has any observations to make about the rationale in not disclosing. I don't know why. I would surmise that someone, sometime, may have felt that by disclosing investments in particular for each fund it may well adversely in a positive or negative way affect the market. I don't know.

Mr. Bentley, I would like to have the benefit of your comments on this.

**Mr. Bentley:** This is a very, very difficult area to reply to.

**Mr. Lawlor:** Would you agree that you have to administer a benighted policy?

**Mr. Bentley:** I'm not sure of that either.

**Hon. Mr. Clement:** I didn't hear the comment. I'm sure it wasn't another Stygian shadow, was it?

**Mr. Lawlor:** This is unfair to ask Mr. Bentley, asking him if he wants to make any comment about being the poor administrator of a benighted policy.

I'm not finished yet. How many people on your staff at the present time?

**Mr. Bentley:** Twenty.

**Mr. Lawlor:** Twenty. I must confess, having a penchant for old things, bouquets of ancient wine, I was looking over the pension report of 1868 again too. At that time you had 19 on staff.

**Mr. Singer:** For 1868 or 1968?

**Mr. Lawlor:** For 1868! There were 19 persons on staff. Your moneys at that time—

**Mr. Singer:** Are you aware it's only 105 years old?

**Mr. Lawlor:** Your moneys for the calendar year were \$180,000. It has somewhat crept up. I hope it's not all being contributed to a pension plan, but there it is—or \$20,000 of it is in employee benefits. It's crept up to \$269,000.

**Mr. Singer:** Not bad in 100 years.

**Mr. E. M. Havrot (Timiskaming):** Good business; well run!

**Mr. Lawlor:** In five years. In other words, you've gone up enormously.

**Mr. Bentley:** Number one, we have only added one staff member since that period of time. It is true that there have been increases in the general salary levels for all people on our staff. Basically, and I think Mr. Neale can bear this out, the major increases have been with respect to staff salaries. They haven't been with respect to all the other functions, with the one exception of employee benefits.

**Mr. Lawlor:** I have just one other brief comment. This struck me when I looked at it, as a startling index of the inflationary impacts of an economy, which is not Mr. Bentley's fault—at least not yet.

On the other hand, why don't you consider, in these pension plans, that one of the great defects is that somebody invests in the plan and it goes along, and 20 years later it looks inflated? Are you giving any consideration to writing escalation clauses into these pension plans, or making it mandatory that some provisions be made in this regard?

**Hon. Mr. Clement:** I've had approaches made to me along these lines perhaps even

unknown to Mr. Bentley. It's easier said than done. Ontario Hydro had a policy which affected widows of retired employees up to 1967, whereby if a pensioned Hydro worker died his wife received 25 per cent of that pension on his death. In 1967, the funding was changed and the whole programme was changed. It's now 50 per cent. That is for widows since 1967.

Right in my own neighbourhood in Niagara Falls, where we have a high number of Hydro workers, both active and pensioned, we have the situation where a woman whose husband was taken, say in 1966, getting 25 per cent of his pension and her next door neighbour, whose husband died in 1968, getting 50 per cent of his pension. I'm the first who can see that it works a real inequity. It's awfully difficult to explain to that poor soul who is receiving 25 per cent why her neighbour should just get double in per cent what she receives.

The same thing has been faced by this government in connection with school teachers, who are each year diminishing in numbers, that is who retired back in the late 1940s and early 1950s with pensions which at that time looked like they were adequate—\$200 a month or this sort of thing.

Once you get into this for one group, you'd better look at it on the basis of what it's going to cost industry and the public generally, to put it right across the board for everyone. While it's highly desirable economically, I think it would be just a tremendous cost. I wish I knew the simple answer.

Your question is well taken, and I've thought about it. But you're actually proposing an open end tie-in with the cost of living and there is just no actuarial foundation on which to project that. You look at the performance in the past, but it's awfully difficult to forecast accurately in the future.

**Mr. Chairman:** Mr. Bentley.

**Mr. Bentley:** Mr. Chairman and Mr. Lawlor, there have been quite a number of pension plans covering quite a large number of employees that have been amended to come closer to this so-called cost-of-living index, or whatever phrase you want to use, as examples in your flat benefit plans. They're quoted usually as \$2 per month per year of service with a maximum service, say, of 35 years. As you will be aware, over the last 10 years the level of benefits has gone from about \$2 per month per year of service up to, now, approximately \$7.50 per month per year of service in the more advanced plans. And these have been advanced periodically,



either through negotiations or by unilateral improvements to the level of benefits. In the majority of cases these apply retroactively as well. In not all cases, though, have they applied to people who are in receipt of benefits. In some instances, this has happened and in others they have not considered that people who have retired come into these clauses.

The same with what is called "career average benefit programmes." These have been periodically updated. A number of years ago you would find the average benefit might have been one to one and a quarter per cent times the number of years of service of the individual, and these have been upped, either through negotiations or unilateral action, to an improved level of benefits; and in many instances the improvements have been retroactive in effect.

In what is commonly called "the final pay plans"—there are a number of them, and I'll group them all into one category and just call them "final pay arrangements"—the benefits are based on the level of income at that particular time. These are really the only kind of plans that I have seen at the present time that provide for an escalation after retirement. Even though there is a lot of talk in this area, there is some small development taking place in these kind of arrangements now.

So that in effect there has been quite an improvement in the level of benefits since I have been with the Commission—I came from Saskatchewan originally—and there has been quite a difference in the level of benefits over the last eight years that I have particularly noticed. So that although it is not something you can tie to an escalation clause, there has been recognition in this particular industry of this particular situation.

**Mr. Lawlor:** Through union agreements?

**Mr. Bentley:** Through union agreements and by unilateral action of employers.

**Mr. Lawlor:** Do you only handle private plans or is your Pension Commission also concerned with governmental plans? And the superannuation of teachers was mentioned; are you concerned with that?

**Mr. Bentley:** We have just this concern, that the public service plan, the teachers' plan, the plan for Ontario Hydro and all the government agencies' plans are subject to the legislation, just the same as any other private plan. We are the only province, incidentally, that has that. The other provinces exclude the public service plans and the quasi-governmental agencies and so on.

**Mr. Lawlor:** Is it part of your responsibilities to determine whether the plans are actuarially sound?

**Mr. Bentley:** If you can attach a meaning to the phrase "actuarially sound", yes, we do require that each plan shall file a valuation report with us; and that report must be acceptable to the Pension Commission of Ontario.

In other words, the assumptions used, the method used, the value placed on assets and so on is something that must be acceptable to us at the time the report is filed with us. If it is not, we have the right to reject it, and we do it.

**Mr. Lawlor:** How many actuaries have you on staff?

**Mr. Bentley:** We have no actuaries on staff. We use the government actuaries, plus the actuaries on our commission.

**Mr. Lawlor:** In order to determine asset value, have you any investigatory staff?

**Mr. Bentley:** No, we do not. We rely, unfortunately I guess, to a large extent on my judgement.

**Mr. Chairman:** Mr. Singer.

**Mr. Singer:** Yes. Insofar as the Teachers' Superannuation Fund is concerned—and I thought Mr. Lawlor might have been getting to this—we seem to get reports regularly saying that it is far from being actuarially sound—whatever actuarially sound might mean. Do you have any jurisdiction in relation to the Teachers' Superannuation Fund?

**Mr. Bentley:** In the same way as we do to any other pension plan in that, first, the Act requires that any unfunded liability in existence at the time this legislation became effective—that was January 1, 1965—must be funded over a period not exceeding 1989, and the teachers' plan came under this particular situation.

**Mr. Singer:** But suppose that is never caught up, as I suspect it's never really going to be?

**Mr. Bentley:** In an on-going plan I think that you could consider this to be a reasonable situation. In other words, what you describe will take place. As long as there are continual improvements to the plan it will create further liabilities.



**Mr. Singer:** Yes, we put in \$2 million every year and we also get the auditor's comments that it is not actuarially sound. Nobody seems to worry about it very much, except some of the teachers have begun to worry a little.

I wonder if their worry is well placed or not? I suppose it is as sound as the government is?

**Mr. Bentley:** I would say that that is correct.

**An hon. member:** No wonder they are worried!

**Mr. J. P. MacBeth (York West):** They can rest assured.

**Mr. Singer:** What about the investment policies of the Teachers' Superannuation Fund? I am told that what happens to those moneys is that the government borrows them. That is the investment. The government borrows them, I think, at six, or it moved it up to six and a quarter per cent or six and a half per cent, certainly something substantially less than might be safely obtained from the market. Do you have any supervision over that, or should we concern ourselves with the Minister of Education (Mr. Wells) when we get to him?

**Mr. Bentley:** We have no supervision over what the investment shall return.

**Mr. Good:** OMERS is tied to the provincial borrowing rate. Isn't the teachers' fund, too? We passed that legislation a year ago.

**Mr. Bentley:** Substantially, yes.

**Mr. Good:** It's at whatever the province has to borrow at. In those years when the province didn't borrow, they used the rate at which Hydro had to borrow.

**Mr. Singer:** Let me ask this of the minister. Do you think it is fair that the teachers' money is automatically borrowed by government at a low rate when in fact they could go into guaranteed investment certificates, for lack of a better quick thought, and get eight per cent or eight and a half per cent? I notice that interest rates went up a little bit in the last day or two, by one-quarter of one per cent.

**Hon. Mr. Clement:** I am not familiar with the policies that apply to the teachers' fund or the Hydro workers' fund, which I presume is somewhat similar. I presume there is some basis for it tied in, perhaps, with the prime rate at which banks make money

available to the public at a most fortuitous interest rate. The only thing that would concern me about the fund being available to the private sector is when I sit back and think how lucky the teachers and everyone in this province are that all their money was not invested in British Mortgage back in 1966 or 1967.

**Mr. Singer:** I was talking about GIC or government of Canada bonds; or Bell Telephone, which got up to 9½ at one point.

**Hon. Mr. Clement:** With the GIC, I think, it's the same story, as I am sure you have told clients many times, particularly a widow after she has some money in her hands which her husband has left. She has some insurance funds to invest and she asks you for your advice. Knowing her nature—perhaps she is conservative in nature—you suggest that she go into Dominion of Canada bonds or something of that nature as opposed to a mortgage transaction.

My feeling is that by the province borrowing the money through one of its agencies, be it Ontario Hydro or the province itself, that fund is set aside. It is 100 per cent guaranteed by the government; the government has to pay it back. If you go into a GIC, the government only stands behind the first \$20,000. On balance—I don't know and I don't profess to be an investor—I think there has to be a bit of percentage traded for security.

**Mr. Singer:** All right. Really, what I'm getting at is it has been suggested to me rather forcefully—I don't know that you are the proper administrator to act on this. I am quite certain when I get to the Minister of Education, he's going to say it is governed by some board and he really has little to do with, and that there are teachers on the board.

**Hon. Mr. Clement:** Yes.

**Mr. Singer:** I don't know if any of these people are on the teacher's superannuation board.

**Hon. Mr. Clement:** I think Mr. Bentley—

**Mr. Chairman:** It might be better to leave it until that time.

**Mr. Singer:** No. I don't want to be told later on that it is this minister's responsibility. I am going to be told anyway, so let's clear the air.

**Hon. Mr. Clement:** Mr. Bentley, perhaps you have some comment on this inquiry?

**Mr. Bentley:** Yes I—

**Mr. Singer:** Not too long, I hope?

**Hon. Mr. Clement:** It's just that they know you.

**Mr. Bentley:** There is one thing, I think, that most people tend to forget, and that is in a plan like the teachers', the benefit is what the teacher becomes entitled to when he retires. This is a two per cent final pay arrangement.

The moneys have to be provided, first, through the contributions of the employee or the teacher, with the government making up any deficiency that is necessary to fund that plan. Under that particular type of plan the entitlement of the person coming up for retirement is based on the benefit formula of the plan. Whether or not the fund earns two per cent as a yield or whether it earns 10 per cent, this is what the teacher gets. And most people tend to forget that the benefit is what is available for them to obtain.

Now I know that the argument goes: "Oh, we could take the money out and put it in the market and we would get a rate of return of eight, nine, 15 or 18 per cent." I have seen all of these figures quoted, and I haven't seen sufficient evidence to back them up. And, furthermore, what they are talking about is that this fund shall earn 15 per cent for the next 20, 30 or 40 years, which again is something that can be argued from now till doomsday. Nobody knows what's going to happen in 30 years.

**Mr. Singer:** No, I'm not talking about 15 per cent. I am looking at today's market. An eight per cent return is not an unreasonable return, and is a reasonably safe one.

**Mr. Bentley:** For today this may be quite true, but it may not be true tomorrow or the day after tomorrow, or any other time.

**Mr. Singer:** Well, if the government is going to reduce its interest rate, if the cost of money borrowed is cheaper, if the government borrows from the Teachers' Superannuation Fund at six or six and a quarter or six and a half per cent—

**Mr. Bentley:** But they do guarantee the rate of the benefit formula under the plan, which is protected for them.

**Mr. Chairman:** Mr. Good.

**Mr. Good:** One question: Under the company pension plan, if the company goes bankrupt is the plan protected? Or if there are moneys owing the plan by the company, that is collected premiums from the employees, are they prime credit as the credit against these bankruptcies?

**Mr. Bentley:** That is a very difficult question.

First of all, the Pension Benefits Act requires the payments to be made up to date of termination or winding up of a pension plan. But in the case that you have indicated, a bankruptcy, in the main, is a federal matter, and we work quite hard with the federal government to try to determine whether these are preferred or whether they should be taken off the top. It's a matter that hasn't been before the courts in Canada yet.

**Mr. Good:** The plan itself is not an asset in winding up the company bankruptcy?

**Mr. Bentley:** Oh, no!

**Hon. Mr. Clement:** It is not an asset for creditors.

**Mr. Bentley:** Not an asset for creditors. I'm talking about any moneys that might still be owing to the pension plan by the employer who has gone bankrupt.

**Hon. Mr. Clement:** Is that a preferred claim under the Bankruptcy Act? I just don't know.

**An hon. member:** No, it is not a preferred claim.

**Mr. Bentley:** Mr. Minister we cannot seem to establish that as a preferred claim.

**Mr. Good:** No, but the plan isn't wiped out.

**Mr. Bentley:** No, they cannot touch the assets of the pension plan itself.

**Mr. Chairman:** Mr. Renwick.

**Mr. Renwick:** Mr. Chairman, Mr. Lawlor and Mr. Singer were saying there are good fund managers and poor fund managers. It does seem to me there is a vacuum in both the standards of performance required and the publication of information to a person who is entitled to receive a pension at some particular time from the fund.

It seems to me that you should seriously take into consideration the question of how



the funds are invested and what the standard of performance is. There is such a thing, I am quite certain, over a period of time. And there should be some adequate publicity because there are recurring problems.

The problems have been referred to, for instance, about a person who retires before a change takes place in the plan. We want to know whether you can improve it.

We make all sorts of arrangements to meet that on an ad hoc basis, such as we did with former employees under the OMERS plan. We are now drafting the regulations to increase their pension. But aren't we running a grave risk of not knowing whether these funds, in such large amounts of money, are well managed or not well managed? And can we leave it simply to the provision of the Trustee Act in the traditional trust sense to make certain that they are properly administered? Is it sufficient for Mr. Bentley to get, what, a statement of asset evaluation in the plan every three years, and expect him to perform any kind of supervisory function? I just raise these questions because it seems to me that every time, whether it's the teachers' fund, whether it's the Metropolitan Toronto Police fund, somebody is complaining that the return is not as good as it should be; and there is some evidence to indicate that it is not as good as it should be.

**Hon. Mr. Clement:** As I mentioned earlier, the rationale, and I'm going to play the devil's advocate here, the rationale may have been originally that it might have some adverse affect on the market. But I think that is somewhat contradicted by the mutual funds, which certainly are very substantial investors in the market, which—

**Mr. Singer:** Boast!

**Hon. Mr. Clement:** —boast of what their holdings are, and many of them give quarterly statements as to their holdings—

**Mr. Singer:** That's how they're conducted.

**Hon. Mr. Clement:** They show the yield over the period involved, give a little performance table over the last, perhaps, three to five years. And who knows, it may have some affect on the market; but I don't think it is adverse. So perhaps the rationale, if I am right on what the original reason was, may well, by the experience of the mutual funds, have been long since exhausted.

**Mr. Renwick:** I really do question the adequacy of your response to the captive fund aspect—that is the fund which is set up, and

under the guise of total security makes available to the government X millions of dollars; or the fund which is administered by the executive committee of the board of such and such a company, which finds it convenient to lend, because the terms of the trust may provide for it to lend money, say for their own corporate purposes, giving rise to the kind of conflict of interest questions that Mr. Lawlor raised. It just seems to me that it's an area which certainly merits study.

I know it's fashionable now, in the United States, to talk about pension funds, because I think it is fair to say they have their problems magnified many, many times, and that perhaps we're only getting the overflow of it. But it is true that there is no publicly-available way in which information is made available, on which judgements can be exercised about whether such and such a pension plan is being properly administered by the people whose job it is to administer it.

**Hon. Mr. Clement:** Well, with the funding of the investment programme, as for the teachers touched upon by Mr. Singer, let us say, for a moment, that it was most beneficial to the province, to the tune of, for a certain bloc of dollars moved over, at a certain rate, say six per cent, or five and three-quarters or six and a quarter, somewhere in there; and at that time that fund could have generated another point or two. Now, as a result of that, the fund at the end of the year didn't earn three-quarters of a million dollars that it could have if it was moved over into the other. What the province has benefited, in the terms of, let's say, cheap interest, at this point, it is obliged to make up by bringing the fund up to par at this point. And the resulting beneficiary of that fund is guaranteed of the performance of it in any event.

Now, if that bloc was put into an investment of eight or nine per cent, which is realistic in today's market as I see it, and that investment went defunct, then there would be a higher onus on this government to make up not only the lost interest but the capital itself, which has gone down the drain.

So I think you have to make that distinction with that type of fund, the deficiency of which is being made up by government, as opposed to a private fund run by a big organization, a big company like Bell Telephone or one of the industrial complexes, where if there is any deficiency it's just gone. Now I think we have to—



**Mr. Singer:** Well, yes; except that now you've got the answer to the question posed a moment ago, that it is tied into a fixed formula at the end. So that, in fact, when the government borrows from the teachers' fund at a low rate of interest, while it is true it's tied into a fixed formula at the end, you could pay to the fund for its borrowing what it has paid to the market on its latest borrowing and it would be in a position to increase its formula, even though the same process was going on and even though the safety of those funds was still being guaranteed. In other words, if that fund was earning eight per cent instead of six, while it guarantees a fixed formula at the end, the province had to borrow from pension funds at a rate that is the going rate in the market. There may be better years, there may be worse years, but at least the fund would get the benefit of those better years because, it's certainly going to get the non-benefit of the worst years.

**Hon. Mr. Clement:** But the only beneficiary, the individual member of that fund, doesn't get his pension increased because there was a good year's investment. He's on a fixed—

**Mr. Singer:** But on an actuarial basis that fund was calculated as producing more than the teachers would be able to obtain by bargaining, on the record of performance, for higher pension. So that at that point—

**Hon. Mr. Clement:** And the government contribution would be less.

**Mr. Singer:** Pardon?

**Hon. Mr. Clement:** And the government contribution would be less, if there was any deficiency in the capital—

**Mr. Singer:** Well, the government theoretically is supposed to contribute dollar for dollar. It has never caught up and it never will catch up, and there is no mention of it catching up. But what I am concerned about—and I thought I was stopped there a moment ago—

**Hon. Mr. Clement:** Did I help you?

**Mr. Singer:** Yes.

**Hon. Mr. Clement:** I didn't help you, did I?

**Mr. Singer:** Yes, you did.

**Hon. Mr. Clement:** Oh, Jesus!

**Mr. Singer:** Because with all the safety factors still built in if they came back and

paid the going rate of interest the teachers would be able to say: "Well our fund has earned so much more so we are entitled to greater benefit."

**Mr. Chairman:** Mr. Renwick.

**Mr. Bentley:** Only in the case of being able to re-invest the earnings. In other words, to be able to be sure that the cash flow always was invested at that rate of return, and there is no guarantee that could happen.

**Mr. Singer:** Yes, but pension rates bounce up and go down, and in these years I think it is unfair that the government says: "We are borrowing at a point or two points below the market."

There is another point I wanted to follow up. Do we have any control—and I suspect not—over international funds? Canadian or Ontario members of the Teamsters Union, through their dues pay a portion into a pension fund handled in the United States.

**Hon. Mr. Clement:** St. Louis.

**Mr. Singer:** It has been suggested pretty forcibly that some of the handling of those funds, by Teamsters particularly, has been something less than honest on occasion. Supposing one of these large funds is so badly administered, which is quite possible, that they suddenly disappear; do we offer any protection to Ontario Teamsters who paid into that fund? Are we able to?

**Hon. Mr. Clement:** Mr. Bentley.

**Mr. Bentley:** That particular kind of a pension plan is really one in which the employee pays all. It does not have to be registered with the Pension Commission of Ontario.

For your information, we have looked into these particular kinds of plans and have given considerable study to them, and it is really conceivable that by requiring that particular type of plan to be filed and registered with us, we could place it in a very, very difficult financial position under the terms of our legislation as it is at the present time. It's basically because those are fairly old plans. At the time they were established there were very, very few company-sponsored plans or negotiated arrangements between employees and employers. Consequently now you're finding, within the IBW, the Teamsters and a number of others—the mine workers and a few of them—

**Mr. Singer:** The UAW?

**Mr. Bentley:** No, not the UAW. Those now are all negotiated arrangements and are totally different; they are subject to our legislation all the way through. But with the other kinds of plans you find within the membership of those plans, the older, longer-service individual. The liability for those individuals could be pretty horrendous if we required them to be funded in accordance with the requirements of the Pension Benefits Act. These are disappearing things and I'm not sure whether this is good rationale or not, but nevertheless it is—

**Mr. Singer:** Surely the Teamsters' fund isn't going to disappear.

**Mr. Bentley:** I think eventually this will be what happens. These kind of plans are disappearing, and have been disappearing over the past 10 years. I think this will be something that will occur in the future and all I'm hoping, quite frankly, is that the older, longer service member of that particular union doesn't get hurt too badly in case of any situation that may arise. It is a very difficult situation.

**Mr. Renwick:** Do you have the names of the members of the pension commission and—

**Mr. Bentley:** Do you want me to give them?

**Mr. Renwick:** Now!

**Mr. Bentley:** Do you want that now or after dinner.

**Mr. Renwick:** Right now, unless there are other questions.

**Mr. Chairman:** Are there other questions? Maybe we could get those and then pass this item.

**Mr. Bentley:** The chairman—

**Mr. Chairman:** Have you got those?

**Mr. Bentley:** Yes I have.

**Mr. Chairman:** Relate them please.

**Mr. Bentley:** The chairman of the commission is Mr. Arthur Meen and the vice-chairman Mr. D. S. Rudd. There is also Mr. Lawrence E. Coward, Mr. Gordon Milling, Mr. Paul A. Kates, Mr. John E. Trimble and Mr. William J. Saunderson.

**Mr. Renwick:** What are their salaries?

**Mr. Bentley:** The rate of the honorarium for the chairman is \$125 when he's in attendance, the vice-chairman \$110, and for the members in attendance \$95.

**Mr. Renwick:** How often would they meet?

**Mr. Bentley:** At least every second week, except during the summer holidays when there are—

**Mr. Singer:** Mr. Meen; Mr. Kates, who is the president of the Toronto Progressive Conservative Association—an interesting group.

**Mr. Renwick:** Mr. Gordon—

**Hon. Mr. Clement:** —Milling for the United Steelworkers.

**An hon. member:** Now be careful, be careful now.

**Mr. Chairman:** Shall item 2 carry?

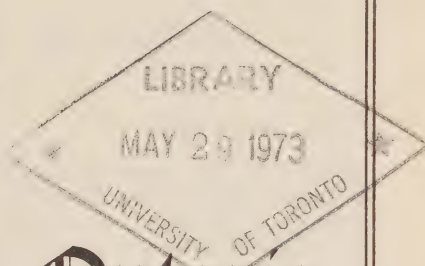
Item 2 agreed to.

It being 6 o'clock, p.m., the committee took recess.

## CONTENTS

Monday, May 14, 1973

Commercial standards programme, continued .....	S-319
Recess .....	S-352



# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

---

**Monday, May 14, 1973**  
**Evening Session**

---

**Speaker: Honourable Allan Edward Reuter**  
**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER**  
**PARLIAMENT BUILDINGS, TORONTO**  
**1973**





## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

MONDAY, MAY 14, 1973

The committee resumed at 8 o'clock, p.m., in committee room No. 1. Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1302:

**Mr. Chairman:** We will now deal with item 3, financial institutions.

**Hon. J. T. Clement** (Minister of Consumer and Commercial Relations): Well, Mr. Chairman, and members of the committee and others present, I have with me this evening Mr. Gordon Grundy, the Superintendent of Insurance, and next to Mr. Grundy is the deputy superintendent, Mr. Murray Thompson, and next to Mr. Thompson is Mr. Joe Silver, deputy superintendent and Mr. Marshall Dawson, an insurance analyst with the ministry. Knowing that that introduction has caused everybody to understand everything about insurance, loan and trust companies, I presume you are going to call the vote now, Mr. Chairman.

**Mr. Chairman:** Any questions? Mrs. Campbell.

**Mrs. M. Campbell** (St. George): Well, mine doesn't really pertain to all of the major problems of insurance, I am leaving that to experts. But I am concerned about one thing. I have been trying to track down a situation, and I was startled to find that apparently there is no way in which there is a reporting service when an agent or a broker gets into difficulties. Apparently, unless the public informs the department or the branch, or unless an insurance company, being the sponsoring insurance company, informs the branch, there seems to be no way in which information is fed, as to the activities of an agent or broker, particularly if he is found guilty or convicted in a matter of a fraud.

I am wondering if there isn't any way in which there could be an ongoing overview of a situation where an agent or broker is

before the court. I recognize the problem where one doesn't want to jump to a conclusion of guilt, by reason only of a charge. But it seems to me that there should be someone with some kind of a watching brief over that situation, and that the information should go to the branch, so that they would be very readily aware, without the intervention of either public or insurance company, that there is something radically wrong. I wonder if the minister would care to comment on that?

**Hon. Mr. Clement:** Mrs. Campbell, you are touching on a suggestion that maybe a broker or an agent is charged with fraud, not necessarily pertaining to the insurance industry, but a fraud. Perhaps he defaults, steals money paid to him on behalf of a client for premium—charged with a criminal fraud. What you would like to know is what assurance you have that this comes to the attention of the department. Unless somebody happens to inadvertently read it in the news or—

**Mrs. Campbell:** Or pass it along. I am concerned because when you have the right to license, it seems to me you have an obligation, a concomitant obligation to the public, and unless I misunderstood the information I received on a matter I was pursuing, it would seem that there are two ways in which this comes to your attention. One is, just as I say, the sponsoring company says it is not getting paid its premiums, or secondly, if some member of the public complains, but I don't think that's good enough for a licensing body, with respect, sir.

**Hon. Mr. Clement:** It may well come to the attention of the superintendent the following year when he applies for renewal of his licence, but that may not be good enough.

**Mrs. Campbell:** That is the problem.

**Hon. Mr. Clement:** Mr. Grundy, do you have any comment with reference to Mrs. Campbell's inquiry?

**Mr. G. E. Grundy** (Superintendent of Insurance): Mr. Chairman, in addition to the two methods Mrs. Campbell has mentioned,

there is a third. We examine a selected group of agents and brokers every year through Mr. Silver's staff—who is my deputy in charge of all of our examinations. We select at random a fair number of agents and brokers for examination each year, and from time to time, without notice, through the year. I grant you there isn't any automatic, sure-fire method of immediately triggering this news, but I would think in pretty well every case it would come to us, by either of the routes you mention, or through Mr. Silver, or through the Ontario Independent Agents Association—they keep us very closely in touch with everything that affects members and other intermediaries.

**Mrs. Campbell:** Perhaps Mr. Thompson would like to discuss with you the case which I discussed with him. And you might between you see if there were some way of tightening up the situation, because I don't think that I would be satisfied to feel that there were loopholes in this, where the public relies very heavily on what would be a holding out of a licence where there were defaults.

**Mr. Grundy:** I would be very glad to pursue that further, Mrs. Campbell.

**Mrs. Campbell:** Thank you.

**Hon. Mr. Clement:** The payment to the agent is deemed to be payment to the principal.

**Mrs. Campbell:** Yes, I am aware of that.

**Hon. Mr. Clement:** I'm saying this for the benefit of the other members of the committee, not you, Mrs. Campbell, because I know you are a solicitor. If someone was convicted of fraud, and subsequent to that conviction, did accept a premium and pocketed it, the member of the public would still be protected and the payment to that agent is deemed to be payment to the principal.

**Mrs. Campbell:** But it is before the conviction that I'm concerned about, and the fact that at this point, in this particular case, while there has been, I believe, a court order, the moneys are not being paid back too readily through the courts and people have suffered.

**Hon. Mr. Clement:** Okay, I appreciate your comment.

**Mr. Chairman:** Further questions?

**Mr. D. M. Deacon (York Centre):** Is there further consideration being given to licensing

of a different nature, somewhat to the registration of a security salesman, where the person can be strictly brought before the Securities Commission and lose his right to deal in securities? Are you thinking in terms of making the insurance licensing on the same basis?

**Hon. Mr. Clement:** Well, I think that you are touching on something that was mentioned, almost similar to Mr. Renwick's comments earlier about the dual licensing as a security salesman and an insurance salesman.

**Mr. Deacon:** Well, I am thinking about the fact that there is a similar position of trustworthiness required, and I noticed that in your speech recently, you alluded to the importance of the insurance industry taking a much more responsible attitude; the agents taking a more responsible attitude in their responsibility to the clients they have. I think there is good reason for the insurance industry to have the same discipline prevailing that prevails within the securities industry—that is, that if there is any question of behaviour, that their licence can be forfeited forthwith, and they just don't automatically have freedom to carry on till the next year when their licence normally expires.

**Hon. Mr. Clement:** That, and I am speaking very personally, is the ultimate, as far as I am concerned.

**Mr. Deacon:** Is that the ultimate, or is that something that can happen in the immediate?

**Hon. Mr. Clement:** No, something that happens immediately, in my assessment, would be the ultimate, and you and I have had some private discussions along these lines, where, if someone is *prima facie* bound to be carrying on a practice that was not in the public interest that, perhaps, we might well consider lifting the licence and have the hearing afterwards—very similar to the securities legislation, as opposed to certain other procedures where, until the thing goes through to the appeal procedure, that they can still carry on. It's a philosophical point and a very practical one.

**Mr. Deacon:** Well, one of the things you've been talking about all the time, is the matter of industry self-regulation, and I am sure that a lot of people in the industry would like to see a situation where they have legislative powers to back up the



disciplining of those who are contravening the best interests of the industry itself. This whole idea of self-regulation is one whereby the introduction of it might be more acceptable to those who would normally resist this type of immediate government intervention.

**Hon. Mr. Clement:** Well, I think you are aware, the comments to which you allude, also contained some advice to the public and the industry as a whole. There is a study; it has just been commenced, possibly three weeks ago, under the chairmanship of—it's a one-man study by Mr. Douglas Carruthers, QC, looking into the role of the agent, because at first blush it would certainly appear that there might well—and I stress might well—be areas of conflict between the agent and the consumer.

**Mr. Deacon:** I have been very interested that, not only in life insurance, but in other general insurance, different agents have expressed the hope to me that there would be this type of legislation, where there is self-regulation, and there is a definite responsibility the agent has to the client, not just to the company. That is the feeling clients often get, that they are much more interested in protecting the insurer than they are the insured. I have found that, among agents themselves, there is the feeling of concern; they are hoping the government will soon take action.

**Hon. Mr. Clement:** The independent agents find themselves in a bit of a quandary—that is, the seller—and I am speaking now of general insurance as opposed to life insurance. They are deemed, on the one hand, to be agents for the principal companies, and yet on the other hand, I would say, in most instances—and I say most in the sense that it may be 98 per cent—they are in the minds of the consumer, my agents.

**Mr. Deacon:** That's right.

**Hon. Mr. Clement:** When I have a loss I deal with my agent, and when I have a dispute I go and consult my agent. And yet legally, in certain areas, as I understand it, he is the agent for the principal; that is, the insurer.

**Mr. Deacon:** This is certainly the major advantage that the private system of insurance could have over government insurance, if the agent really does look at his role as protecting the person being insured.

**Hon. Mr. Clement:** Well, in February, I believe, I spoke to the Independent Agents Association, which certainly does not include all the independent agents in the province, and I challenged them in about five areas on that occasion, as I recall. I must say that my challenge to them to become truly independent, subject to certain restraints, was very enthusiastically accepted.

I think they are in a bit of a quandary as to the role that they fill in our society today. I'm waiting to hear back from them as to the results of certain challenges I put forward to see what their input is to this very thing. I agree that it's confusing even to those of us who have some familiarity with the problem. You can imagine how confusing it is to John Doe out there, who, as I say, looks at his agent as "my agent."

**Mr. Chairman:** Mr. Young?

**Mr. F. Young (Yorkview):** In this connection, I would like to comment on the relationship of the private agent and the company. In the matter of car insurance today, I understand that even though I am a high risk, I have a right to demand car insurance. The agent covers me and then, of course, the high risk is spread among the companies.

But something is emerging today which is of very great concern to the agents. It's this: More and more, the companies are saying to the agents, "You're taking the risk, not us." It is meant in the sense of an agent selling insurance to a person who has a very serious accident running up into thousands of dollars, and then a second client has the same experience.

What is happening now is that the companies say to that agent, "All right. You're selling high-risk insurance; your clients are proving to be bad risks. Therefore, we withdraw our business from you." And some of the agents are now at the point where they're getting desperate. They're not responsible; they have no way of knowing that Mr. A, to whom they sell insurance, is going to have an accident. They sell in good faith, knowing that the risk is going to be spread; yet they're helpless in a situation where the company comes along and says, "We're going to withdraw all our business from you and use another agent instead."

I'm just wondering where this situation stands legally, and if anything can be done to prevent this kind of high-handed action on the part of the corporations which threatens the very existence of the agency that deals directly with the consumer.

**Hon. Mr. Clement:** Well, Mr. Young, I will let the superintendent answer that in just a moment. I just want to pass on my contacts with this type of problem, and I've had quite a few.

The companies look at an agent's performance in terms of loss ratio. For purposes of creating an example, we'll say that he writes coverage for a certain company in a year and the premiums total \$20,000. To simplify it, the losses for that year's underwritings total \$30,000. Well, they say, "That's fine. With friends like you, who needs enemies? You've given us \$20,000 and we paid out \$30,000." Perhaps the following year, the same pattern develops. It just becomes a business decision, as I see it, that after a certain period of experience with this agent, it's the old story, "Who needs friends like you, when we can have enemies? And it's cheaper."

I don't know whether certain agents attract the type of business that is bad business, or whether it's just the ups and downs. From my experience in practising law, I know you can't take a small period of time and project this. You can't have a really good week in the practice of law and say that since you made X dollars this week, if you expand it 52 times, therefore, that's what you're earning every year. You have to take it over a period of time, because there are peaks and valleys.

Whether a year with an agent is enough or not, I don't know. But it gets to the point where the insurer decides that he can get along a lot better without handling certain agents' business, because it's been nothing but a cost to him. I had occasion as recently as one week ago to confer with the deputy superintendent of insurance dealing with a particular agent. As he advised me, it isn't just loss ratio that's involved, it's usually other factors. Now, with that, I will turn it over to the superintendent.

**Mr. F. Young:** Well, does this mean, then, that the companies are saying, "You have to weed out the bad risks at your level"? That is, the person who is tough, and refuses to sell to what may be projected as—

**Hon. Mr. Clement:** High risk.

**Mr. F. Young:** —a poor risk, then, all right. That person who is tough and refuses insurance is really getting around the law which says we are all entitled to insurance. This person who has refused one company goes to another and finally finds some guy who is good natured, but who is also interested in

business, and who says: "All right, because of the law, this man is entitled to the coverage. Therefore, I will give it to him." He becomes a law-abiding agent in that sense, whereas the other agent is not law-abiding.

**Hon. Mr. Clement:** Well, what happens, invariably, is that the agent who underwrites the business will send it in to the insurer, his principal. If that principal goes a step further and finds out that the driving history of this individual is not as it was disclosed, then he will be put into what is called the facility—and I still think in terms of assigned risk. In essence it's almost identical. And the individual who is put on the increased premium, 50 or 75 per cent over normal premium, then complains. Just touching on this for a moment, I have found almost without exception that a member will come to me and say, "I have been consulted by a constituent, and all he had were two speeding convictions. Now he has been put into the facility, the premium is a 75 per cent surcharge." So I say, "Fine, I don't know the circumstances, we'll check into it."

And, yes, he was convicted of two speeding charges, plus about three or four more that he didn't disclose at the time he made the application. He didn't disclose it to his agent, nor did he disclose it to the member, who, ultimately, speaks to me about it.

I don't know the philosophy of the insurance company, I suspect it's based on dollars and cents, but statistically, I think there is a higher chance of a high-speed driver being involved in a much more costly and serious accident than a person who has no convictions for that type of moving offence. It's a difficult area to delve into. I just wonder whether the insurance companies sometimes don't discourage the writing of coverage through an agent. I don't know.

**Mr. F. Young:** Again, it comes down to the question of who is responsible for that marginal driver, whether the police and the courts are responsible to see that he is off the road, or the insurance company.

**Hon. Mr. Clement:** Well, let's forget about the facility and say for a moment there was none. Then the high-risk driver is put in the same pot as the cautious driver with little or no history of cost to the insurance industry. If you are that type of driver, and so am I, then our premiums are necessarily going to reflect the judgement of the driver who has been convicted five times of high-speed moving offences. On the one hand, why should



you and I be penalized? On the other hand, if this fellow is that type of driver, should he not pay an additional premium for his type of behaviour on the roadway?

**Mr. F. Young:** The premiums keep going up anyway regardless, I guess. I see your point.

**Hon. Mr. Clement:** Yes, but I think the registrar might well have some comments to make on this—or the superintendent, I'm sorry.

**Mr. Grundy:** Mr. Chairman, you've covered much of the motivation. We do expect automobile insurers, and the industry as a whole, to see that nobody goes without insurance. It is up to them to rate the bad risks and get a proper premium. On the other hand, there is a tendency on the part of some agents to accept any kind of business that's offered to them, in fact they will sometimes indicate, or show a preference for the high-risk business, because it means a larger premium, and consequently a larger commission, for them. We certainly have seen the type of situation you've described, where a company has taken its business from an agent, but I think I can assure you that it is a very rare instance where that is done, without some real provocation, and where the percentage of substandard risks is far out of proportion. We watch that carefully and we bring pressure to bear wherever we do see that companies seem to be taking improper action. For instance, some companies have taken action in certain geographical areas of the province. They've denied business to agents in certain areas, where there is a preponderance of this type of risk. In these cases we have had to use our influence to see to it that this is not done.

**Mr. Chairman:** Mrs. Campbell.

**Mr. F. Young:** It seems to me—

**Mr. Chairman:** I'm sorry, Mr. Young.

**Mr. F. Young:** Just coming back to this question. As long as the society, through the police and courts, allows a person on the road, then the insurance is supposed to be available; that's their philosophy at the moment. So that the question then is back to what I asked before. Is it the business of the insurance company to force these people off the road? Or is it the business of the police and the courts to force them off the road? If they are forced off because of very bad records, and so on, then the insurance

problem doesn't arise. As long as we allow them to drive, knowing they are bad risks, or suspecting it because of a bad record, then they have a right to insurance.

If one company is so tough that it won't grant it, then these people shop around until they find somebody who will. My point is that that person is abiding by the law of the land if he sells it. Why should he be penalized for acting this way and granting the insurance when his friend across the road, perhaps, refuses to sell to that person, just because he wants to keep his record intact at the expense of that chap, whom society says still has a right to drive a car?

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** I have two questions, one of which flows out of my first question—and that is the matter of people operating under more than one company heading. They may operate under their own name in conjunction with another name, we'll say Smith and Jones, and then have another agency under a completely different name. I'm wondering if this is really a very sound practice, or if one could watch for a multiplicity of these companies, which may not be readily traceable by the public at large, if anything should go wrong.

**Hon. Mr. Clement:** Mrs. Campbell, you are indicating the agent, we're talking about agents now?

**Mrs. Campbell:** Yes.

**Hon. Mr. Clement:** Mr. Grundy, do you have any comment on that? About people operating under, perhaps, a corporate name, and also operating another agency under their own name as the sole proprietor, for example?

**Mr. Grundy:** I'm not familiar with all our operating requirements and details. We do have pretty strict rules with respect to how an agent holds himself out either in a corporate fashion or individually or as a partnership. As I say, there is a body of operating rules which have grown up and Mr. Halford, our director of licensing, unfortunately isn't here tonight. Mr. Thompson, would you speak to that point?

**Mr. M. A. Thompson (Deputy Superintendent of Insurance—Legal):** Yes, I think there are not a great many cases, but there are cases where agents may have an involvement in one or more agency corporations, and doing that by reason of different classes



of business. They may be doing a general business and they may be doing a life business. Either of them, or both, are acceptable to us. Our requirement is that the agent must devote 100 per cent of his time to the business of insurance. If he is qualified to deal with the other classes then we permit that. We haven't seen any instances of abuse in this area, but we'd be quite happy to look into any if there is—

**Hon. Mr. Clement:** Mrs. Campbell, I might just add a word of concern that I have. It has come to my attention fairly recently that perhaps there is one company in this province, that I am aware of anyway, that has indicated almost a quota system—and, Mr. Young, you may find this of interest and in line with your question too—where they have indicated to the agent, “For every single male driver under 25 that you write we would expect that you would have 10 drivers over 25, and we will decline the coverage if you exceed that quota.” That is not endorsed by the superintendent nor is it endorsed by the ministry, by any stretch of the imagination. That is a matter of concern to me and I am checking that out. I had some information tendered to me not too long ago along those lines. I deplore that and I think it bears looking into.

**Mrs. Campbell:** That leads into my last question on this matter, and it has to do with the same sort of thing, what appears to be a quota system in the placing of fire insurance, particularly in an ageing city. We had problems in Toronto some time back where we were of the opinion, as municipal people, that there was a definite blacklisting of certain areas of Toronto for any insurance purposes. I must say that the industry itself did set up people to come and help to painstakingly investigate all these claims, but I really didn't think it was the function of a municipal councillor to do this. It seemed to me that it was the function of this branch of this department.

Certainly there was no question, from the agents with whom I spoke, that they were pretty well told, “For every risk you take in such and such an area of the city, you must take at least two or three or more in what we call a good-risk area.” So it pertains there, and it means that in some cases insurance companies, by their activities, could come very close to planning the city, because it creates problems in the redevelopment areas, areas of pressure.

I would like your comment on that kind of

operation. I can't call it an abuse. Certainly it was hard to figure out in these areas. Some were legitimately turned down because they were, in fact, individually bad fire risks until work could be done, but there was such a general area of no insurance. We worked so hard to try to get this to some kind of conclusion but we didn't have the investigative abilities, and again it seemed to me that this branch should be looking into that whole operation.

**Hon. Mr. Clement:** Maybe it is. I just don't know.

**Mrs. Campbell:** I don't know, either. It's a long time since I went through that, personally, but I have had to sit with them to try to work something out.

**Hon. Mr. Clement:** Mr. Grundy, have you had any experience with fire underwriters saying, “For every low risk in this area we would expect to have X number in another area that were more acceptable to us”?

**Mr. Grundy:** I would feel that it is certainly our job to look into these things. We have had very few problems referred to us along these lines, nor have they even come to our attention. In the past we have talked to the IBC—Insurance Bureau of Canada—about certain situations, but as I say, they are few and far between—that is these that have actually come to our attention. We do know that the fire insurance companies have agreed, for instance, to provide insurance right down the line on all owner-occupied homes provided there is proper housekeeping, and this applies throughout Toronto. But certainly if there are any problems I feel that it is our job to look into them and we would be most glad to do so.

**Mrs. Campbell:** I know, Mr. Chairman, that when I did call—now, it is some time ago and I don't have the names; I wouldn't presume to try to recall them at this point; I could be in error—but the attitude I got was, “Well, if you can investigate and show us that this is happening, we will be glad to take it on.” This is what caused me to have to get in with the industry and the complainants.

**Mr. Grundy:** Try us again.

**Mrs. Campbell:** I am not about to. I hope you will be alerted to it now and that no municipal person will have to get involved to that extent, because I think it's something

that is very much of a concern to old municipalities.

**Mr. Chairman:** Mr. Singer.

**Mr. V. M. Singer (Downsview):** Mr. Chairman, on the last point that Mrs. Campbell makes, while she and others were fighting this battle on the municipal level—and I think it was before Mr. Grundy's arrival here—some of us were fighting the same battle on the provincial level, and it got quite a bit of publicity. I satisfied myself that there were whole blocked-out areas in the city of Toronto where no fire insurance company would write any insurance. There was quite a fuss made here and quite a bit of publicity attached to it, and as a result of that—and undoubtedly by reason of the same kind of concern expressed by the city council—that seems to have changed. I certainly haven't heard any specific complaints along that line for several years, but it did exist maybe eight or 10 years ago and it was reasonably widespread.

**Mrs. Campbell:** It existed as late as 1968 or 1969.

**Mr. Singer:** Yes. I know we fought that quite strenuously here and I think a substantial improvement resulted from that.

About the selectivity insofar as automobile rates are concerned, I don't know if the minister has had a chance yet to read the various reports of the select committee on automobile insurance which functioned in 1960, 1961 and 1962.

**Hon. Mr. Clement:** No, I have not read them.

**Mr. Singer:** The member for Haldimand-Norfolk (Mr. Allan) was the chairman of that committee and it brought in a series of very far-reaching and good recommendations, many after consultation with the automobile insurance companies. One that comes to mind quickly, as I was listening to Mr. Young's remarks, was the positive commitment by All Canada on behalf of the automobile insurers that they would insure everyone the province allowed to be on the road, and if the companies would not do it directly, there was then the assigned risk plan and subsequently—what do they call it now?—the facilities, which doesn't seem to have worked as well in latter years as it did immediately following the pretty strong and unanimous expression of opinion of the select committee.

Perhaps one of the reasons why the recommendations of the select committee held such important sway for a few years' time was because Jim Allan was then the Treasurer and the sort of 2IC of the government of Ontario. Well, Jim Allan has moved to another seat and perhaps his feelings on those points aren't felt so strongly as they once were in the insurance industry and they lose sight of it.

I was reading a bulletin today that came into my office from the agents. I have forgotten what group it is. It is a yellow bulletin that comes in once a month or something and I get it. There were some comments there about companies that refuse to write policies for motorcycles unless they get all the insurance in that family—the motorcycles and the cars and so on. If it has reached sufficient dimensions again—and I am beginning to hear this type of complaint again—then I would recommend to the minister and to the Superintendent of Insurance to look at some of the general principles that we set out in that report and maybe have a pretty heart-to-heart talk with the industry as a whole. I don't know the extent to which All Canada speaks for them, I would presume pretty forcefully still.

But I think there has been the tendency again of drifting away from that. They were offered a licence review board which the committee recommended be set up, but the industry never asked for it. They went along with the recommendation. Their condition of writing insurance for all people the province would allow on the road was that there be a licence review board. The licence review board was never in fact set up and they were prepared to let the decision of the Registrar of Motor Vehicles and the other administrative machinery take hold there.

I think maybe we should have a better look at those principles again and begin talking to the industry about this, because the decision as to who should be on the road, whether it be a motorcyclist or a driver, cannot be an insurance industry decision; it's got to be a government decision. If an insurer comes to the conclusion that Vern Singer or John Clement or anybody else should no longer be on the road, then he complains through the established machinery, the Registrar of Motor Vehicles, and so on, and gets them taken off the road.

As long as the province gives them a licence and as long as we have what is to all intents and purposes compulsory insurance,



and we should have, then there has to be insurance available to those people who are allowed to be on the road by the laws of the government of the Province of Ontario. I think maybe a very strong statement of that principle could and should be made very soon.

**Mr. F. Young:** And the agent who supplies that service should not be penalized.

**Mr. Singer:** That's right. That's right. It is just a prolongation of that principle which I thought was clearly established. But if it isn't yelled from the rooftops at regular intervals, apparently, the industry slips back into its old and obnoxious habits and it shouldn't be allowed to do so. I suggest to you, Mr. Minister, it's your responsibility that they don't slip back into that, along with the services of Mr. Grundy and his department.

The point that I wanted to talk about in some detail was the fixing of rates for companies. I have never, since I've been here, been satisfied that the Government of Ontario or the Superintendent of Insurance has any real knowledge of the rates that are presented in the green book. We perhaps have moved to some extent in that now there is actuarial checking available. But I have no idea as to why those sections that I have referred to several times—and I gave you the numbers of them the other day—sit in the Insurance Act and have sat there for nearly four decades and have never been proclaimed. That is the armament that the government should have.

I am not suggesting that you should use it, but it should be there and it should be there to the knowledge of the insurance companies. So that those rates should not be an accommodation; those rates, after substantial checking, should be an approval by the Government of Ontario through its proper officials.

I would like to know whether it does in fact make sense—and I would like to see it in a government report, not in an insurance industry report—that all single male drivers under 25 have to be rated upwards, whereas single female drivers under 25 don't have to be rated upwards. To me that doesn't make sense. It may be that there is statistical evidence that will prove that conclusively. All we have been able to get over the years is the assurance from the insurance actuaries that it makes sense.

It may be that there can be a gradation. Maybe the reckless young man from 16 to

18 or 19, if he's single, is more reckless than the young lady from 16 to 18 to 19. Do wisdom and care and common sense suddenly descend on him because he gets married? Why the arbitrary age of 25? I mean, none of these things make too much sense and I would like to see some detailed analysis done through the insurance branch to justify the rate structure.

Something else that has bothered me for many years, and I've never yet been able to get the answer, is that insurance rates are apparently based on underwriting experience. That's profit-and-loss ratio in relation to the number of dollars in premiums collected in a particular year and the number of dollars paid out. There is no relationship in the rates to return on investment in that, nor is there any relationship in the rates—at least that I have been able to ascertain—on interest on prepaid premiums. Most of the premiums are prepaid; some of them are paid over a period of months or semi-annually, and so on. But there is substantial revenue that accrues to the insurance companies out of their investment income which they have made out of the industry, which is part of their profit, and out of the interest on prepaid premiums.

We have talked about this at great length and we just continue to be sloughed off. Until there was an actuary available to the insurance branch, there was no hope of ever getting at it, because one of Mr. Grundy's predecessors admitted to me that he looked at the green book every year and if it seemed reasonable it was approved for whatever the approval was worth. He admitted to me—and this particular gentleman had been in that position for a great number of years—that never in that great number of years, and though he'd seen 10 or 12 different green books setting out the rate, had he ever asked them to take one back and reconsider it. So that for a very long period of time, those rates, as determined by the insurance company actuaries, were the rates that were applied throughout the Province of Ontario.

I don't know the situation in recent years since Mr. Grundy's advent to this position; whether or not any of the rates has ever been sent back or if all of the rates have been accepted. You now have the facilities available to you of an actuary, and has your actuary been able to show you on one occasion, on five occasions, on 10 occasions, that he disagrees with the rate structure that has come forward?

What I am getting at, Mr. Minister, is that with the facilities that I understand are



presently available to the insurance branch, I would like to see an intense and detailed actuarial analysis done by someone who is not employed by the insurance industry, telling the Legislature and the public that the rate structure does, in fact, make sense, that these categories make sense, that the penalty attached to the single male under 25 does, in fact, make sense. Maybe there is a reason—and it continues to escape me—why the rate structure should not reflect the return on investment income.

Maybe there is a reason that it should not reflect the interest on prepaid premiums which accrues to the insurance companies and is kept separate from the profits. As long as this goes on—and it has gone on since insurance companies first began to sell insurance—it becomes harder and harder to justify the arbitrary fixing of rates and does more and more harm to the private enterprise that lies in that industry.

Now, I have substantial differences of opinion with my friends in the NDP about how automobile insurance should be run, and they can tell you what they think, and I don't share their view. But I have expressed the opinion before and I continue to express it, that unless the public is shown that the methods of carrying on business of these private insurance companies are reasonable and equitable, and that there are regular government checks, with the ammunition that you've got in your statute and that you've never used, the more effect the kind of theories that the NDP are putting forth, are going to have.

Eventually, unless there is an answer from the government and from the industry, perhaps the philosophy put forward by the NDP is going to prevail. I don't want it to prevail, but again I am sounding this note of serious caution. I think there is a responsibility on behalf of government—if it believes, as I think it does, that private enterprise should continue to run this industry—to make sure that it runs it so that the public can understand how it's being run and if it's being run in an equitable manner.

**Mr. Chairman:** Mr. Lane.

**Mr. J. Lane (Algoma-Manitoulin):** Well, Mr. Chairman, I was going to make a comment on this question, but I think the concerns that Mrs. Campbell and Mr. Young and Mr. Singer have expressed are the real concerns of the people on the street. I was in the industry for a time and I heard these very things being expressed to me by people on the street.

With reference to Mr. Young's point there that some agents probably get penalized for selling bad risks, it could very well be the agent, Mr. Young, more than the company, because it's quite easy to go out and find the guy who has to pay a high premium because nobody else wants them very badly, and he is easy to woo into your office and give you the extra dollars that will make more money on the books. So if he is maybe going to stay in the business for a short period of time and try to make a name for himself and try to make some dollars in the meantime, he may be looking for this type of business and by the same token may be crying loudly if he gets penalized by the company who has asked him to take the business. So there could be the other side of the coin, too.

**Mr. F. Young:** Yes, except my point is that if he is that bad a risk that the companies consider he should not be on the road because they don't want some of them charged, then it is up to the police and the court to say he should not be on the road. But as long as he is allowed to drive, the law says he has a right to the insurance—

**Mr. Lane:** That's right.

**Mr. Young:** —and therefore that man is doing no harm to society in selling that insurance to him.

**Mr. Lane:** Except he may be encouraging this type of risk to come to him and this will give him more volume than he would normally get otherwise.

**Mr. F. Young:** All right. We have speculation in every field.

**Mr. Lane:** I've run across these guys who have done this, because it is easy to get them.

**Mr. F. Young:** I know. But then, society should say that those fellows should be barred from the roads.

**Mr. Lane:** Referring to the concern of Mrs. Campbell about the fire areas, I do know you are right in this. I also know that companies tend to like to spread the risk and not get too much risk in any one block and produce a bad rate if they have got too many dollars in there. So this is the case.

In the case of Mr. Singer, there are some companies, sir, that do have grades other than the magic figure of 25—start at 16 and sort of grade them into a better rate, with 25 being the major change in the rate. The young lady does cost the parents somewhat

more than if only they were driving, but not as much as the young lad. There are some efforts from time to time.

**Mr. Singer:** There may be, but there is also abstainers' insurance, which I can't buy.

**Mr. Lane:** But you know the eggs are not all in one basket.

**Mr. Chairman:** Mr. Minister, you had some comments on this.

**Hon. Mr. Clement:** I would like to comment on some of the very pertinent comments made by Mr. Singer. No. 1, I don't think the insurance companies should determine who drives and who doesn't drive. No question about that; it is pretty trite.

No. 2, with reference to the sections of the Act, which I understand from my friend Mr. Singer were brought into being some 35 years ago but never proclaimed. I surmise that perhaps they are the big stick you talked about that government has in the past held over the head of the industry but never proclaimed for reasons known to itself. I have not read the report of the select committee to which you referred; I believe it was chaired by Mr. James Allan back in 1960-1961-1962. I will undertake to do so. I find it very interesting.

With reference to problems at the branch in which the superintendent has found himself in years gone by, he has had the unfortunate situation existing—and his predecessors have, too—of having to rely on actuarial advice provided by the industry, in that the ministry did not have an actuary on staff. Mr. Singer has already touched upon it, because he knows that we do now have a full-time actuary whose sole commitment is that of loyalty and responsibility to the government. I think that is a move, and a good move, in the right direction.

I feel I somewhat misled the House on a question made by Mr. Singer, perhaps, some days ago. Somebody asked a question of me. The green book had just come out and I was under the impression that the superintendent's office would have had an opportunity to study the contents of it and have some comment available near the end of this month. I have since found out that is not true. It will be closer to the end of June.

**Mr. Wood,** the actuary, is studying those figures very carefully in an effort to see whether they are accurate and valid. If they are—I think this is what you are saying, Mr. Singer—fine, but let's have an independent

assessment of it so that the public, of which you and I are members, have some idea.

Insofar as the interest earned on prepaid premiums is concerned, I can't really make any comment on it. The thought hasn't crossed my mind but I find it very appealing and very interesting. It must be a rather significant sum.

**Mr. Singer:** Has to be.

**Hon. Mr. Clement:** Sure it does. I happened to prepay my insurance today on a couple of automobiles which totalled close to \$400. At eight per cent, which is the figure we were discussing earlier, it has to generate perhaps \$20 or \$30 over the next 12 months for the receiver of those funds.

I would at this time like to ask Mr. Grundy for his comments. You've heard the comments of Mr. Singer on this point and the comments of Mr. Lane; perhaps you might touch on those in the sequence we've already heard. You might be able to throw some light on this for us.

**Mr. Grundy:** Mr. Chairman, insofar as whether insurance companies should have the right to determine who should drive, I don't know whether I should add anything to that particularly, except to say that I don't know of any instance in the last few years in which a person has been turned down for automobile insurance. There is no single instance of any licensed person having been turned down, that I know of.

**Hon. Mr. Clement:** They have been rated, I take it?

**Mr. Grundy:** Maybe they have had to pay very large premiums because of the risk involved.

**Mr. Singer:** That was another point which the committee made—that the rating process can increase the premium by 700 per cent, or fantastic amounts. While all the companies together can say "We've never refused insurance," the effect of rating can be such as to effect, in fact, a refusal of insurance. The rating process, surely, has to be subject to the control, Mr. Grundy, of your department?

**Mr. F. Young:** My point here was also that while that may be true, the fact is that the insurance company penalizes the agent who sells to that high-risk person by cutting him off as an agent for the company. In effect, it is saying, "These people shouldn't have insurance or you're going to bloody well pay the bill."



**Mr. Grundy:** The fact remains that we don't know of any instance in which anyone has failed to be able to insure himself at a price within reason. We are talking about a reasonable situation. I know of no instance in which anyone has failed to obtain automobile insurance at a price within reason.

I should carry on to comment on the rates themselves. The sections of the Act which have not been proclaimed do certainly give us a great deal of power and influence. We use that power and influence properly, I think, in our annual examination of the rate structure.

The insurance industry generally, although it is not required to by law, comes to us and makes its presentations after it has studied the green book and has arrived at at what it feels should be its individual rating situations, either as individual companies or as rate-making groups. There are two of those—the Independent Conference and the CUA. Those are two situations. Other rate structures are pretty well set by individual companies.

As I say, this rate striking occurs after each of these groups, in a competitive fashion, has had a chance to look at the green book. This, I might say, is a compilation of factual information obtained from the insurance industry under section 78 of the Act, which says:

Every licensed insurer which carries on in Ontario the business of automobile insurance shall prepare and file when required with the superintendent or with such statistical agent as the superintendent may designate, such statistical return of the experience of such businesses as the superintendent may require and in such form and manner and according to such system of classification as he may approve.

The green book is our book. It's a book put out under the auspices and under the authority of the Association of Superintendents of Insurance of the Provinces of Canada. A committee, of which I happen to be chairman, authorizes, in fact stipulates, the form in which those statistics are to be gathered, put together and presented finally in the form of the green book.

We have, until the last two or three years, had to use casualty actuaries provided by the industry, reporting to us. Carl Wilcken acts in a dual capacity; he's both the casualty actuary for the Insurance Bureau of Canada and he acts for my committee. Not being completely satisfied that we have gone as far as we should, about three or four years ago we commissioned one of the outstanding firms

of casualty actuaries in the United States, Messrs. Mayerson, McGuinness to report on the green book, on the accuracy and the manner in which it is prepared, whether it constitute a proper document to serve as a basis for the formulation of rates. I believe this report was released in the House about three or four years ago. I know it was just coincidental with my coming into office. This firm did report favourably on the whole construction of the green book.

Since then we have been fortunate enough to also acquire our own actuary, Mr. Lear Wood, at the back of the room here. Joe Silver, my deputy in charge of all of our financial examination work, has been particularly entrusted with the review of the green book and the rates which come to us as the suggested or proposed rates each year. I think Joe, you got into this what—about two years ago? He is also, in answer to Mr. Singer's question, taking into consideration investment income, also the prorating of administration expenses. For instance, in a multi-line insurance company that's in automobile and fire and other casualty lines, there is often quite a question as to how the overhead expenses of that particular company are pro-rated across the different lines.

Mr. Silver has been looking into this quite carefully. He has instituted, under the authority of the section of the Act which I read to you a few minutes ago, instituted further statistical gathering processes relating to not only the breakdown of investment income across the product lines, but also the breakdown of the overhead, selling and other administrative expenses.

I think we are giving these people a pretty good going over, and I think the proof of the pudding might lie in the fact that using comparable coverages for a standard 1971-1972 model, claims free, driving to work, bodily injury, property damage of \$100,000, medical payments of \$2,000, accident benefits, collision of \$100 deductible, comprehensive of \$25 deductible—we in Toronto pay \$175 and in Montreal they pay \$254; San Francisco, \$427; Milwaukee, \$219; Buffalo, \$311; Detroit, \$348; Cleveland, \$298; New York, \$476. Some of these states have rate controls.

**Mr. Singer:** Rate controls by themselves aren't the answer, because we found out in Boston, which is in the State of Massachusetts, which theoretically pioneered in compulsory insurance, that their rates were the highest in North America, because the industry was corrupt and the Superintendent of Insurance took great delight there in



telling us, and this was on our committee, that he had the biggest fleet of taxis in the whole state and he was quite proud of it. The lawyers told us that since there were no damages for property damages that all the adjustments relating to personal injuries reflected property damage. If you had a broken fender, you had a sore knee, and that was worth \$150 towards replacing the broken fender.

So that the label that is put on the particular type of insurance isn't the guiding factor. I'm not prepared to be overly convinced quickly about the comparative rates we have. What would convince me more is if Mr. Silver could say in the last—what was it, two years Mr. Grundy said you had been having a pretty good look at these things—that you had turned back suggested rates six or eight or 10 times. Have you turned some back?

**Mr. J. Silver** (Deputy Superintendent of Insurance—Finance): We definitely have.

**Mr. Singer:** How many times?

**Mr. Silver:** The two years I have been looking at it we have turned it back twice. The rates have been—

**Mr. Singer:** All rates?

**Mr. Silver:** The rates have been reduced, yes.

**Mr. Singer:** Well, that is something new and unique, and I would like to see the basis on which they have been turned back, how many have been turned back and the effect of the turning back. I think that should be down a little lower, and the company has argued it back up. Have in fact the rates been produced as a result of the turn-back?

I hear now that you are taking into account profit on investment income. Why aren't you taking into account interest on prepaid premiums?

**Mr. Silver:** Well, the investment income would include that. We are looking into the total investment portion very carefully. Our problem has been to establish what the investment income was, with respect to the particular line of business, and we started a pilot project last year. This year we will have the figures as accurate as they possibly can be. We saw the problems some years ago, but the difficulty, of course, in an industry that operates across Canada, is to get it to move in a homogeneous manner and to get the statistics that they will be

acceptable to us. It's not possible to do this overnight. It's taken some years to do this, but I'm satisfied that we are on the right path.

You touched on one area, just now, which really is of interest to us, and which Mr. Grundy hasn't mentioned yet. That is this question of making the statistics understandable, or more understandable, to the layman. We have done that in some aspects already in that green book. We have actual loss exhibits which weren't there at one time. Previously there were just the theoretical figures. It's our intention to get more statistics of that nature included in the green book, so that the layman can better understand what it is that we are doing in the technical exhibits.

**Mr. Singer:** The thing that continues to keep my suspicions alive, is that I hear about rates increasing through stories written in the financial pages of our newspapers. The industry suspects we are going to have a 15 per cent increase. This is months in advance of their suspicions being confirmed.

**Mr. Grundy:** They are just softening the punch.

**Mr. Singer:** I just wonder why the industry doesn't say: "We have suggested it to the Superintendent of Insurance that maybe we need some more money. We are awaiting anxiously to hear whether or not he agrees."

**Mr. Silver:** I think one of the reasons for that is the fact that these pure-loss exhibits come out. The pure-loss exhibits might indicate that a certain range of additional premium might be required. But this might not be the actual agreed-upon rate eventually, because other factors have to be taken into account—such as expense factors, and now, the investment income factor. So the actual final figure could be different from the indicated pure premium rate.

**Mr. Singer:** I think it would allay a lot of public suspicion—certainly it would allay some of my suspicions—if the final word on the changing of insurance rates, and they never seem to go down, they always seem to go up, came to some extent from you people rather than from the announcements by the industry; usually made, as I say, two or three months in advance of their actually happening.

**Mr. Silver:** Well, the various rating groups and the various companies do have their

different rates. One can have a very different rate from another. It's rather misleading, when it is said that the average increase this year is 12 per cent. This could represent two per cent for one individual. It could be minus five per cent for another individual. It could be plus 20 per cent for another individual. This is one of the problems.

**Mr. Singer:** No, you understand this, Mr. Silver, but as a relatively naive layman, I don't understand it. I would feel much more comfort, and I'm sure there are lots of people out there who would feel much more comfort about the fact that, within the machinery available to you, with your independent actuary, and with the unproclaimed sections that may be in, and when you get around to reading it, Mr. Minister, you'll note that the committee recommended that the sections be proclaimed, as far back as 1961—with the unproclaimed sections proclaimed, that maybe we could depend on government to say: "In our opinion, for the year 1973, these are fair rates."

**Mr. F. Young:** Mr. Chairman, could I ask again, the exploration is going on regarding the interest on investment and prepaid premiums, and so forth, in respect to rates—that is, the setting of rates; this is going to be considered? How soon can we expect some results showing in lower insurance rates, or adjusted rates? Certainly, the experience, in the areas which Mr. Singer spoke about, is particularly like Manitoba and Saskatchewan—Saskatchewan for 25 years. The experience there has been that they have been able to reduce rates by about 6½ per cent, as I recall the figure, just from that one item alone, by counting in the interest on investments and on prepaid premiums. This seems to be significant. I was wondering, with the investigation going on, how soon that leverage is going to be exerted on rates?

**Mr. Chairman:** Mr. Grundy, would you respond to that?

**Mr. Grundy:** Yes, Mr. Chairman, I think it has been going on, and what I'd like to reiterate is that the competitive spirit is very evident to us, in talking to these companies and reviewing their positions, particularly reviewing the horrible underwriting experiences they've had. It's a good thing they do have investment income, really. I just wonder if maybe we shouldn't be looking at this—we're only looking at a very small part of a very large picture where we must also take into consideration all the costs of insurance. The car repair costs, all of these things are a fac-

tor, very much so. I think probably we have not been making a sufficiently comprehensive review of the matter—looking at all aspects and factors that are involved.

**Mr. F. Young:** Well, it just seems today the automobile insurance industry seems to be crying that it's losing money on the whole bit. Why they're fighting public insurance so strongly, I suppose, is because of its total impact and they look upon this as a sort of thin edge of the wedge in the whole insurance industry. It seems to me that the experience of Saskatchewan is they can administer the insurance for 15 cents or 17 cents on the dollar whereas the private insurance here takes about 35 cents or about twice as much—all these things have a bearing on how you bring down rates. They think their investment return is a pretty large part of the total impact in dropping rates.

**Hon. Mr. Clement:** Mr. Young, one thing I think all consumers are guilty of, and I certainly plead guilty to it, and we've touched on this in discussions earlier this evening, is the role of the agent. I know that I happen to regard the agent, with whom I deal, as my insurance adviser. At no time have I ever gone to him and said—and I think he acts for five or six different companies—"Can you give me comparative rates in the various companies?" In other words, he just, each year, sends me a renewal premium on my car and I, traditionally, send him a cheque. This is something that, I think, we're all guilty of, and I've had some really pointed experiences in this area.

Some two years ago I had occasion to get a rate on an aircraft I was intending to fly to England. It had a market value of about \$100,000. And every company, and it boils down to about three that are aviation carriers, would give me \$500,000 PL for a flat \$100. In other words, they were willing to gamble at a fairly low premium that I wasn't going to run into a 747. I questioned their wisdom in making that selection. However, for complete destruction of the hull on that aircraft, with a \$2,500 deductible, they started off talking about a premium of \$10,000 for a trip to the UK and back.

**Mr. F. Young:** Pretty expensive.

**Hon. Mr. Clement:** Pretty expensive! I just about fell off my chair. I spent several days here in Toronto negotiating with what I thought were several companies and it turned out there were only three in the market. All the underwriters trickled back to three avenues. The meat of the story is this, after a



lot of negotiating I finally got a premium, I believe it was \$2,700 for that type of coverage. My analogizing this to car insurance assumes, of course, the spread won't be as great for that common a risk. I think we all traditionally just accept what the agent says instead of asking for comparative values, with other carriers that he represents, or, in turn, going out to another competitive agent to find out if he can give us a certain amount of coverage for a reduced price. I think we just traditionally sit back and accept this. This may not be all the consumer's fault, in that we have a certain amount of faith in the expertise and the integrity of the man with whom we're dealing—and remember our initial discussion, he is the agent for the insurer, but we always regard him as the insurance adviser of the family. So we may be in a little bit of a conflict. But that experience that I personally had was just an eye-opener. I couldn't believe it. There it was and I just couldn't believe the—

**Mr. F. Young:** The difference.

**Hon. Mr. Clement:** —discrepancy in those premiums for that particular venture.

**Mr. Chairman:** Mr. Renwick.

**Mr. J. A. Renwick (Riverdale):** Mr. Chairman, it has been an interesting discussion. I think we've heard—most of us have heard variations of it over the years. It doesn't take away from the cogency of the points which are made. I've got three or four, sort of related matters to that. I take it now that under the facility, as it's called, they have a sort of a flat rate percentage increase for minor accidents—minor highway traffic accidents—offences.

**Mr. Chairman:** May I interrupt you for a moment? There is some concern on the part of the members in regard to the vote. The Clerk will come in here when the vote is about to be taken so that we'll have ample time to go into the House at that time.

**Mr. Singer:** I thought I'd have a good excuse not to have to listen to Renwick.

**Mr. Chairman:** I'm sorry, Mr. Renwick.

**Mr. Renwick:** Well, it's all right, Mr. Chairman.

**Hon. Mr. Clement:** Keep cool, keep cool.

**Mr. Renwick:** I notice that he slumped in his chair. I take it that the companies now go back three years. For the first two offences they add a 25 per cent markup and then

15 per cent for each subsequent minor offence. When I say minor offence I mean offences under the Highway Traffic Act, and that seems to me to bear no conceivable relationship to any assessment of risk because the variation of offences under the Highway Traffic Act are immense—from relatively insignificant ones to quite substantial ones. But I want to make the one point that we have now geared the Highway Traffic Act and the monetary penalties under that Act, together with this custom of increasing the insurance premiums, to the point where relatively minor offences, for practical purposes, now bring to bear on the motorist a very high monetary penalty.

If you take a careless driving charge, for example, for which the markup, as I understand it, is generally 25 per cent for three years. And if the person has only that one offence, he's got a minimum of \$100 fine and then he's got a 25 per cent markup for three years. In the situation which I drew to the minister's attention there was no accident and there was no property damage and there was no personal injury at all. It seems to me that if the facility is generally providing this kind of arbitrary markup, they are abdicating any assessment of judgement on the question of the risk of that person on the road.

The second matter, which, while it isn't entirely under this minister's jurisdiction, I would like to raise because it relates to the Highway Traffic Act. We have got ourselves in the position where offences under the Criminal Code for men who—most of them being men—who earn their livelihood driving trucks, that the penalty is extremely hard. There should be some alleviation which will permit a judge, in those circumstances, to grant the restricted licence even in the first three months of the suspension period.

Now, it's all very well to say: "Well, if a person earns his living by driving a vehicle he should put a high value on his licence privilege, and he shouldn't therefore ever be charged with impaired driving." Not impaired driving during the course of his employment; I am talking about the impaired driving that results from the evening in the pub and the 1 o'clock pull over to the curb by the police officer who has been watching the pub door as the truck driver leaves and gets into his vehicle to drive home.

So I would ask the minister if he would seriously consider—although I think we have to be strict—some method of alleviating that prohibition against issuing a restrictive licence, assuming that Ross and the Registrar



of Motor Vehicles, or whatever the case is, is finally decided. I'm concerned about that provision which provides for that restricted licence only being available after the first three months, and then only in certain circumstances.

I would like to ask Mr. Grundy, because Mr. Singer raised this question of classifications—now I have lost track of it—but not very long ago the multitude of permutations and combinations in the automobile insurance rate classification setup was immense, or that was my understanding of it. I would like to know from the superintendent whether or not that rate classification has been simplified to the point where it is not just picking a number to apply to a particular risk.

**Mr. Grundy:** Mr. Chairman, this was one of the particular matters which we asked this firm of Mayerson, McGuinness to look at when they were reviewing the makeup of the green book. They did recommend some simplifications, particularly in commercial areas where there are, as you say, a very limited number of vehicles or a sparse population in that area—too small, really, to come up with proper risk factors. There were some changes made in that area. There have been certainly some simplifications geographically. I am not aware of too many—

**Mr. M. B. Dawson** (Insurance Research Analyst, Office of the Superintendent of Insurance): No more. We wouldn't need any more. There were a number of territories—

**Mr. Grundy:** We had 15 but they were cut down to 11.

**Mr. Renwick:** But when all the permutations are multiplied together, about how many classifications are there in the automobile insurance industry in the Province of Ontario now, taking into account every conceivable variation that you've got? It's astronomical, isn't it?

**Mr. Grundy:** Probably. Yes, I think you are quite right. This is an attempt, of course, to assess the cost of insurance where it belongs. You could, I suppose, handle it as you do life insurance and have it right across the board. But there are so many unique differences in dealing with automobile insurance that you do have to have these categories in order to deal fairly with the situation.

I know that the industry is looking very carefully, with our encouragement, at smoothing out some of these areas, one particularly,

for instance, the under-age driver—drivers under 25. I mentioned earlier that the insurance agent gets a commission on a percentage basis. If that under-age driver is paying a \$500 premium, the agent gets his commission based on this high figure. This doesn't really make too much sense. We are trying to smooth out some of these things, but this is not quite along the line you are suggesting.

**Mr. Renwick:** I am sure it is not just a theoretical one—the extent to which they have subdivided and subclassified the automobile insurance industry risk placement factor, whatever is the proper terminology for it. In a sense it has moved away from the insurance principle. The great bulk of drivers are going to become 16 and get their licence, they are going to become 25 and they are going to continue to drive for years.

I think one of the serious criticisms of the automobile insurance part of the general insurance business is that multiplication of classifications, and its departure from something called an insurance principle. I know of no other field of insurance where they have this minute subdivision classification system, which applies right across the board.

The other point—perhaps Mr. Grundy would care not to comment about it, but it certainly seemed to me that the thrust of all of the points that Mr. Singer and my colleague, Mr. Young, were making about it, were all points which for practical purposes, in the fields of public education and understanding, require public hearings in these rate questions.

I know that there is a great deal of concern that if there were public hearings, certainly the initial year or two of those hearings might find the insurance companies being a bit of a whipping boy as they tried to explain the unexplainable part of their business. But at the same time I know of no other way that we are going to get a public awareness of the severe criticisms of the automobile insurance industry in the McWilliams report. Nor do I know of any way which we are going to get an understanding of the component parts going into the cost of automobile insurance.

I would like to know Mr. Grundy's view, not so much as to whether he would recommend we have public hearings or not but whether or not he thinks it is a feasible proposition in a field such as this to have public hearings on rate structures in the automobile insurance field or in the home insurance field, for example.

**Mr. Chairman:** Mr. Grundy, can you comment on that?

**Mr. Grundy:** Just generally. My comments really have more to do with rate control, I suppose, than hearings. Where you have hearings, presumably it's like a utility hearing, and you are setting one rate. It seems to me the tendency then is to settle on one rate, or a minimum or a maximum and everyone then tends to follow. You lose the unique competitive features as a result.

I can't quite conceive how hearings could be held for all the individual companies. I think there are some 160 of them in the business. They are all free to set their own rates providing they don't set them too low, in which case Mr. Silver again is after them because their financial stability may be threatened. This is actually why some of those sections in relation to the unproclaimed sections, Mr. Minister, are on the books. They're there because of cutthroat competition which existed about 35 years ago, and by virtue of which about a half a dozen companies, particularly in the Province of Quebec, went bankrupt.

**Mr. Singer:** I lose you, Mr. Grundy. This is the second time you have said the unproclaimed sections have an effect, even though they aren't proclaimed. If you really want them to have an effect why don't you proclaim them?

**Mr. Chairman:** Maybe the minister could answer that at the appropriate time.

**Hon. Mr. Clement:** I think they would have an effect.

**Mr. Singer:** No, but Mr. Grundy has twice said the fact that they are there, although unproclaimed, has an effect. I question that.

**Mr. Grundy:** Mr. Chairman, I just happened to mention that in connection with these unproclaimed sections there were other sections of a similar nature having to do with establishing rates or approving rates. You may notice the wording says whether the rates are too high or too low or discriminatory. It applies in all senses.

**Mr. Chairman:** I am just wondering if Mr. Renwick had finished his questions?

**Hon. Mr. Clement:** I wanted to say something in response to Mr. Renwick's suggestion. The basic philosophy of insurance as I understand it was to spread the risk over a very wide base. The good and the bad

are all thrown in the pool, and a norm is established, and we all pay that norm.

I've had occasion to discuss the question of rates, and particularly matters pertaining to the facility, with certain insurers at various meetings I've attended. One of these people put it to me in a form in which I could understand it. In dealing with the question that you raised in the House some months ago Mr. Renwick, about a man who was convicted of—

**Mr. Chairman:** Excuse me. I wonder if we could recess at this time. I gather that the vote will be taken very shortly.

The committee recessed at 9.31 o'clock, p.m. for a vote in the House and reconvened at 9.55.

**Mr. Chairman:** I am sorry, Mr. Minister. I interrupted you for the vote. Will you continue, please?

**Hon. Mr. Clement:** I was just going to comment on some discussions I had with people in the industry we were discussing, Mr. Chairman.

As I understand the pooling concept—that is, the facility as opposed to the general pool—those who, by their driving habits, have demonstrated a certain degree of irresponsibility, let us say, they should be pooled separately from those who don't fit into that category.

I remember having a discussion some weeks ago with someone in the industry who analogized the driver described by Mr. Renwick in the House some months ago, I believe—a driver who was convicted of careless driving but there was no accident and no loss borne by the company. This individual analogized that situation with the person who plays Russian roulette. He takes the position that he has pulled the trigger five times and there has been no loss, so why should he be any different from the individual who doesn't participate in such risky games?

While the person who made this comment certainly was a very partial person, in that he was attached or connected with the industry, he did make a point with me as to the propensity of certain drivers as opposed to the vast majority of drivers. I think that the question is almost a philosophical one: Should we burden those who, by their conduct, have demonstrated little or no risk with the high cost of those who demonstrate that they are a greater risk?



Many of them are accidents looking for a place to happen.

Philosophically, I think I would have to endorse the pool concept. Whether this is being abused or not, I am not prepared to say. But that's the way it was put to me, and I think that person certainly made a point with me on that particular occasion. There may be no loss, but his driving record may indicate that unless he changes it's just a matter of time before he is the defendant in a rather substantial piece of litigation. That's the only comment I had to make.

**Mr. Chairman:** Mr. MacBeth, you had a question?

**Mr. J. P. MacBeth (York West):** Mr. Chairman, if I may, I would like to return for a few minutes to the matter of raising the insurance premiums when a person has been involved in traffic offences. I am not sure who determines when those premiums will be raised, or whether the department or ministry has any control over them. What are the criteria for raising the premiums?

**Hon. Mr. Clement:** Mr. Chairman, as I understand it—and I stand to be corrected in all these matters, Mr. Grundy, so don't hesitate to correct me—the insurance industry per se does not do a routine check on a particular applicant unless it has reason to believe that his driving record should bear scrutiny.

Driving records are available to members of the public who pay the fee. Those of us who have conducted a motor vehicle negligence practice found it very routine to obtain a driving record on a proposed defendant or an actual defendant.

The insurance industry is no exception. Sometimes an accident or a loss will come to its attention, and it will requisition the driving record of that individual to see if he is a standard risk, if we might use that phrase, or whether he should be rated by virtue of his driving record. Is he a potentially greater risk than the person who has no driving record?

We can argue all night tonight about the fellow who drives carelessly but has never been caught. Well, we can take the other side of the coin and presume that the fellow who has been convicted three times of speeding in the last two years probably sped 50 times in the last two years. We end up not making any point one way or the other, so it seems to boil down just to the basic facts. What are the facts?

**Mr. MacBeth:** That's what I'm asking. What is the standard? When do they decide that you are a bad man and you should have your premium raised?

**Hon. Mr. Clement:** I think Mr. Renwick touched on some kind of a formula which has come to his attention and I didn't hear the superintendent's comments, whether that is in fact the formula as he understands it or something similar.

**Mr. Grundy:** The formula mentioned by Mr. Renwick is actually for internal use in the automobile insurance industry as between the facility and the various insurers. It doesn't necessarily, though, set the standard for all insurers. They are free to do as they wish.

**Mr. MacBeth:** So each insurer can adopt his own formula? Is that right?

**Mr. Grundy:** Right. Some groups have adopted—

**Mr. MacBeth:** Is it something that you have any control over?

**Mr. Grundy:** I beg your pardon?

**Mr. MacBeth:** Is it something you exercise any control over?

**Mr. Grundy:** We have, where we have seen the odd unconscionable sort of situation. There were cases of a couple of smaller companies who hadn't really thought it out. They just sort of got into the thing holus-bolus and called for driving records for everyone, applying surcharges without any degree of reasonableness.

For their own good as much as anything we drew to their attention the fact that this was not a good thing.

**Mr. MacBeth:** No, but do you have legislative control over this or are you just persuasive control?

**Mr. Grundy:** I wouldn't think so, no. I think they are free to do their own underwriting, to assess risks as they see them and to charge rates accordingly.

**Mr. MacBeth:** And you don't know then whether the standard that Mr. Renwick has mentioned is common across the industry or not?

**Mr. Grundy:** I would say it was not common at the retail end of it. It is the accepted standard between the facility and the participating insurers when it comes to



assessing the money that is exchanged between the insurer and the facility.

**Mr. MacBeth:** Well, do you feel it's something the government should move into?

**Mr. Grundy:** I don't know. The western provinces—that is all who have government insurance—have this type of approach. The Manitoba Autopac, for instance, has a list of premium assessments depending on the number of demerit points, a regular set schedule of them, ranging from \$50 up to \$300, depending on the number of demerit points.

I believe Saskatchewan and British Columbia are contemplating something similar. I think our Ontario insurers seem for the most part to be approaching this sensibly.

**Mr. MacBeth:** Well, I have a different opinion of it, Mr. Chairman. I think the insurance companies in Ontario are abusing this phase of it and abusing it very badly, and that's why it gives me some concern in wondering whether or not you should. But I gather that you feel that it is not being abused.

**Mr. Grundy:** I could give examples of particular companies who, as I say, got on the bandwagon initially and didn't think it through properly. I think, almost without exception, at least of those who have come to our attention, any surcharges are based not on minor infractions but on reasonably major infractions. And particularly moving infractions.

**Mr. MacBeth:** On a moving infraction, for example, it might not have anything at all to do with what you call hazardous driving. I know where they have moved on making left-hand turns in places where it is purely to control traffic, say in a residential street, and that type of thing.

**Mr. Grundy:** It would be pretty hard for an insurance company to analyse each and every situation. I think if they are going to pursue this policy of surcharging—and they don't all, by any means—they would probably have to establish some sort of rule.

**Mr. MacBeth:** Do you not think they should examine the offence that has been committed, and the nature of it?

**Mr. Grundy:** I don't think that is for me to comment on.

**Mr. MacBeth:** And do you not think they should take into account the record—whether

or not there have been any previous claims in recent years?

**Mr. Grundy:** I think most of them take that into consideration. Certainly some of them, rather than having surcharges, have systems of incentives or rebates; as you gain accident-free years, you enjoy more favourable rates. But the practices vary as between groups and as between individual companies.

**Mr. MacBeth:** As I say, in my opinion, Mr. Chairman, the insurance companies have abused this pretty badly. I can point to four or five definite cases that have involved speeding five to 10 miles over the limit combined with stopping in a no-stopping zone and that kind of thing. I don't think they have gone into the nature of the offences at all. I know of one case where there had been no accidents and no claims for 25 years on the insurance policy, and the company engendered a great deal of ill-will over this policy with people I know.

I think this is one area where we should, perhaps, be setting down regulations. If we are going to allow a surcharge, then I think maybe we should be setting the standard. Because it is our records they are using in things of this nature, maybe we should be telling them when they can impose a surcharge and when they can't.

**Mr. Chairman:** Mr. Wardle.

**Mr. T. A. Wardle (Beaches-Woodbine):** Mr. Chairman, the minister may have covered this point, but I would like to raise the matter of the additional premiums for young people under 25. I know of a young woman who obtained her temporary licence at 15½, her permanent licence at 16 and she has never had an accident. She is well over the 25 mark now, but either her or her parents are required to pay this additional premium. Is there any basis for this?

**Hon. Mr. Clement:** How did she get her temporary licence at 15½? That's the first time she broke the law, in my mind, but go ahead with your story.

**Mr. Wardle:** I may be wrong in that.

**Mr. Singer:** She came from Niagara Falls!

**Hon. Mr. Clement:** Oh, well, they are big down there!

**Mr. Wardle:** In any case, Mr. Minister, she got it as soon as she was legally able to obtain her licence—let me put it that way. On what basis do insurance companies

charge additional premiums for young people in that category?

**Hon. Mr. Clement:** Mr. Wardle, as I understand it, that doesn't apply to the female sex; it applies to single males under 25. I am surprised that she is over 25 and paying a premium, unless it is because of her driving record.

**Mr. Wardle:** But are the young people under 25, both male and female, not required to pay the additional premium?

**Mr. Singer:** Just males. Unmarried, too.

**Hon. Mr. Clement:** Just unmarried males.

**Mr. Wardle:** Unmarried males. This does not apply to—

**Hon. Mr. Clement:** The insurance industry has told us for years that their experience is that the greatest loss falls in the male, single, under-25 group.

**Mr. Wardle:** Do they have any statistics on that?

**Hon. Mr. Clement:** Well, I have not seen them, but I am sure the superintendent's office has seen them on many occasions. Now, Mr. Grundy, this is a good point.

**Mr. Grundy:** What was your last question, sir?

**Mr. Wardle:** Are there any statistics to prove that young men under 25 are less careful drivers?

**Mr. Grundy:** Again referring to our famous green book, the statistics indicate that the loss ratio for single men under 25 is very high indeed. I don't know whether we have any figures with us. They tell me the Department of Transport records bear this out.

**Mr. Wardle:** Are insurance companies required to post their rates with the department?

**Hon. Mr. Clement:** Yes, they file their rates annually and they're in the process of filing them right now for review by the department—particularly by Mr. Silver and Mr. Wood, the actuary who works for the department.

**Mr. Singer:** Could I just ask Mr. Grundy one particular question? You said the registrar's figures bear this out. Do the registrar's figures show whether drivers are single or married? It would show ages of people involved in accidents, but I'm not sure they show whether they are single or married.

**Mr. Grundy:** By age only.

**Mr. Singer:** By age only, yes. This married and unmarried fascinates me, I don't know why. Perhaps they would be safer after they are married.

**Mrs. Campbell:** Never underestimate the power of a woman.

**Hon. Mr. Clement:** It fascinates me too because I can remember many years ago being stopped, allegedly having sped, and I know you presume I was innocent until proven otherwise. That was one of the questions the officer asked me. We got into quite a hassle as to whether I was married or not, and I said: "Well, really, what has that got to do with it?"

**Mr. Singer:** None of their business.

**Hon. Mr. Clement:** We got into quite a hassle and I paid the fine; it turned out he was right. I don't know what it had to do with it other than the gathering of statistics for insurance purposes, perhaps. I don't know.

**Mr. MacBeth:** It depended on what he had in the back seat.

**Mr. Singer:** Well, in any of the statistics I've seen from the registrar's office there's never been that particular statistic shown.

**Hon. Mr. Clement:** Mr. MacBeth just made a scurrilous comment about someone being in the back seat.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** I have two questions. They're not related to this particular issue, so if there are others who want to speak—

**Mr. Chairman:** Any other questions on this particular item?

**Mr. Singer:** Yes, I do.

**Mr. Chairman:** Excuse me. On this particular subject?

**Mr. Singer:** Well, on insurance.

**Mr. Chairman:** And they're related to statistics and sex?

**Mr. MacBeth:** Regarding this question, Mr. Chairman. Regarding the Human Rights Code, I think we carry it to extremes sometimes but how does that permit you to have different rates for male and female? Mind you, I have no objection to you having them, but is it not in conflict with the Human Rights Code?

**Mrs. Campbell:** Your people don't believe that you're part of the human race, according to Mr. Bennett, so that let's him off the hook.

**Hon. Mr. Clement:** Are you asking me or are you asking Mrs. Campbell?

**Mr. MacBeth:** I'm asking anybody who knows the answer. I think it's a reasonable question.

**Hon. Mr. Clement:** Well, isn't the Human Rights Code framed on the basis that there really is no distinction when it comes to performance in certain areas of activity? Yet the rating of accidents and the calibrating of statistics indicates a very definite difference and therefore that class should bear their own risk.

**Mr. MacBeth:** Yes, but you're dealing with the difference between the sexes and it says there should be no discrimination on the basis of sex.

**Mr. Singer:** And the marital status too.

**Mr. MacBeth:** And the marital status.

**Mr. Singer:** What are they on, in the House, third reading now?

**Mr. Chairman:** They're just voting on third reading now.

**Hon. Mr. Clement:** I'm just advised that section in the Human Rights Code hasn't been proclaimed yet, because this is a problem that's been brought to the mind of those who are in charge of it. I didn't know that.

**Mr. Chairman:** Well, if we could leave the subject matter of sex then until next day it might be—

**Hon. Mr. Clement:** The pension commission is also concerned about it.

**Mr. Chairman:** —an appropriate time to rise and vote. I understand they are ready for the third reading and then royal assent.

The committee adjourned at 10:15 o'clock, p.m.

## CONTENTS

---

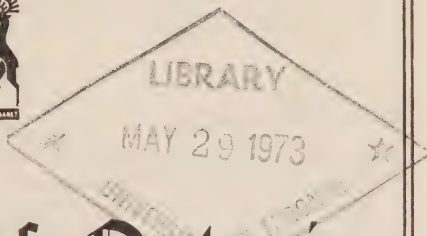
Monday, May 14, 1973

Commercial standards programme, continued .....	S-355
Adjournment .....	S-374









# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

---

**Tuesday, May 15, 1973**  
**Afternoon Session**

---

**Speaker: Honourable Allan Edward Reuter**  
**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER**  
**PARLIAMENT BUILDINGS, TORONTO**  
**1973**





## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

---

TUESDAY, MAY 15, 1973

The committee met at 3:05 o'clock, p.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1302:

**Mr. Chairman:** We were on financial institutions when we left off last evening. Are there further questions in connection with this item?

**Mrs. M. Campbell (St. George):** Yes, I have two questions.

**Mr. Chairman:** Mrs. Campbell.

**Mrs. Campbell:** I find section 102 of the Act relates to the repair of motor vehicles following an accident. While it does provide for an umpire and two appraisers, I wonder if the minister has given any consideration to having an objective party go over a motor vehicle after an accident to somewhat eliminate the role of the insurer—which has been rather a commanding role—also whether there are any statistics available in the department indicating the number of accidents which have been occasioned by reason of cars being on the highway after an accident and after repair.

It concerns me that there is quite a broad area here where we may well have unsuspecting members of the public driving motor vehicles which have been repaired and which probably shouldn't have been.

As a member of a municipal council I have tried to find a formula, I have to confess, as to how you work this out. I was wondering if you could relate it to some percentage of the current value of a motor vehicle at the time of the accident—in the repair bill. But there are cars which are on the highway which shouldn't have been repaired, in the view of some mechanics whom I have talked to. I'm concerned for the safety factor when the public are buying used motor vehicles.

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** Starting at the end and working back: The certificates of mechanical fitness, of course, are issued—don't smoke that unless you twist it around, you make me nervous.

**Mrs. Campbell:** Thank you very much.

**Hon. Mr. Clement:** Okay.

**Mrs. Campbell:** This physical fitness thing is—

**Hon. Mr. Clement:** Why I mentioned physical fitness now is that I distinctly saw you twitch. I twitch myself, I might add. We are not discussing the certificates, of course, and I realize that is not the import of your question, but—

**Mrs. Campbell:** We want to discuss them but—

**Hon. Mr. Clement:** —when the certificates are issued they presumably say the car is fit, certified by a mechanic for a 30-day period. I'm the first to admit that there is an abuse of this too, which involves my ministry because of responsibility for the Used Motor Vehicle Dealers Act. Transportation and Communications are involved because they are seized with the responsibility of issuing these certificates, and the Ministry of Colleges and Universities is involved because they are seized with the responsibility of trade training.

Well, you have got those three items. I don't have any statistics and I'll ask the superintendent—he may have them. A lot of cars are repaired which possibly should not be repaired. I'm sure you know, as a practising lawyer, that the client who comes in and has had property damage to his car just demands that it be restored. Unless it happens to fall in the category of one of those historical cars—if it is that's a peculiar type of thing—but invariably it will be a car that is five to 10 to 15 years of age. He professes to lavish great affection on it every Sunday and keeps it in top-notch shape. The car may have a current market value of \$200 and yet it may cost \$700 to repair.

I've never known insurance companies to lean over and err in favour of the \$700 for my example. They would say: "Well, this is all we are going to allow you. If you want to apply it on the repair of your car, fine, but it's up to us to pay for the repairs." I've never known them to replace either—I've never known an insurance company to substitute a similar car. I'm not saying they don't, I've just never run across it.

**Mr. F. Drea** (Scarborough Centre): They do. If they can find one for the same value.

**Hon. Mr. Clement:** Well, apparently they do it occasionally. As I say, I've never run across it and presumably they didn't want to get into a harangue with the insured later on complaining about the quality or the condition of that car.

The role of the appraiser is one that isn't used very much—it's there. You know, the victim or the insured goes to his agent or calls him and says, "My car was whacked up last night." And the agent says, "Well, take it to your garage, or a garage." The public is under the impression that the insurance company has the right to have several appraisals done on the car. I'm not aware of any obligation on your having more than one.

**Mrs. Campbell:** Each has one and there is an umpire provided.

**Hon. Mr. Clement:** I had a story detailed to me some months ago about a \$31 damaged headlight which was reported to the agent. He took the car or had the car taken to the garage and there was a delay. It turned out that the company had retained an appraiser, you know, and this \$31 damage built up to a \$107 claim to have the car repaired—the actual cost to the company—using an appraiser and an adjuster and a mechanic.

**Mrs. Campbell:** If I may, Mr. Chairman, I don't want to labour the point but I think—

**Hon. Mr. Clement:** Pardon me, do you have any statistics, Mr. Grundy, on the number of cars repaired?

**Mr. G. E. Grundy** (Superintendent of Insurance): No, I'm sorry. We don't have any figures on that. We have had disputes with respect to whether or not the car should be repaired or paid out as a total loss, which we have been drawn into on a number of occasions. But really it's very rarely—as you point out—that they go as far as having official appraisers appointed.

**Mrs. Campbell:** Well, if I may this is the case I have in mind—or the type of case. I happened to act in this one some time ago. We won the case on a pure technicality. It was the case of a car that rolled over. The head office of the company, incidentally, was not in the Province of Ontario. There were difficulties about that. But at first my clients were advised that the car was a total write-off. Subsequently, without any knowledge to them, the car was repaired and they were advised as a result of the repair.

We moved under the Act, of course, that we were not given the opportunity for an appraisal. The car was examined and it was proved to be dangerous as a result of that wreck. I didn't follow through to find out what had happened to that car, but I'm very much afraid that it would find its way into a used car lot and an unsuspecting member of the public could purchase it with its faults undisclosed and not apparent.

It does seem to me that there should be some provision whereby at a certain point in time, a car involved in damage of that nature should be reported to an objective body that would make some kind of decision, or that some history of that should be available to protect the consumer, and I wondered if some consideration could be given to that.

I confess the formula is difficult. I thought at first perhaps 10 per cent of the present market value of the car. It is difficult to work out, but I am wondering, with all the brains in your department, if you couldn't put somebody to it.

**Hon. Mr. Clement:** Maybe we should get back to the discussions that certainly are not unique in these halls, about each car having its own logbook—if you will pardon the expression, Mr. Singer—like an aircraft logbook showing repairs done to the airframe, the engine and so on.

**Mrs. Campbell:** They would have to be made public, I would think.

**Hon. Mr. Clement:** Well, I don't know, it might be a matter of security.

**Mr. V. M. Singer** (Downsview): Would they have to report telephone conversations?

**Mr. Chairman:** That wouldn't be covered by the logbook.

**Mrs. Campbell:** I think it should be of concern to the consumer.

**Hon. Mr. Clement:** I would like to consider that, if I may, Mrs. Campbell. I have



never heard that rather unique proposal put forward.

**Mr. Drea:** Would it be a relatively simple matter? Would you say that upon the completion of a structural repair to a car, he has to have a safety certificate?

**Mrs. Campbell:** No: the thing would have to be done before the car was repaired, because quite often repairs would mask the problem. That is why I am asking if there couldn't be a registration or a report after an accident. The thing that bothers me is you don't want it to be for every headlight that has been damaged.

**Hon. Mr. Clement:** Of course, there are a lot of damages that can be done to a car that look terrible but are really structurally not that dangerous to the car; such as when you rip a fender off it or something. As long as the frame isn't bad it doesn't make a great deal of difference. When you get into damages such as twisted frames, and you get into unusual wear—this sort of thing—this is where the danger, I think, is created.

**Mrs. Campbell:** Well, if you will give it consideration.

May I ask my second question, because I have to go upstairs?

**Mr. Chairman:** Please, do.

**Mrs. Campbell:** We have had some discussion about minority shareholders' rights, and I wonder what consideration has been given to minority members in group insurance cases. I don't know how anything could be done about it but I am concerned in a case, for instance, such as the County of York Law Association group insurance plan, which is discriminatory.

Of course the members of the association can opt out of it or they can join in. But here the discrimination was against the women members of that association and it seems to me that there ought to be some look at just what rights people do have in asserting themselves on a group situation, if we are also going to have protection for minority shareholders in company situations.

**Hon. Mr. Clement:** Have you had any number of complaints, or any complaints, pertaining to this sort of thing relating to group insurance plans, Mr. Grundy?

**Mr. Grundy:** Sir, from time to time we have had inquiries directed to us by members of a group plan with respect to details of the plan and their rights under the plan.

In some cases it is found that they have not received sufficient information at the time the plan was put into effect, or have not been notified of changes that have been made in the plan.

Actually, it is primarily the duty of the policy holder, though, who is usually, say, an employer or the officials of some group, to see that this is done. We encourage all insurance companies and their agents to back this up and to see that the employer or the officials of the association have done their duty, but I think it would be difficult for us to intercede. We do act, certainly, and give whatever help we can to correct any deficiencies and to see that proper disclosure is made of the details of the contract. But I can't quite envisage how we might set up machinery whereby a minority group, or the minority members of an overall group plan—say some employees of a large company who are dissatisfied with the plan—could voice their rights.

**Mrs. Campbell:** It is just a matter basically of—

**Hon. Mr. Clement:** In what way does it discriminate? I am curious about the county of York plan that you are referring to.

**Mrs. Campbell:** Well, for example, a woman in law, while she could protect her children, could not protect her husband under this scheme. Men, of course, could protect wives. This was one of the areas. It seemed to me that there should be some way where the same coverage would apply both ways.

That is just one example, there are several. There didn't seem to be a good enough reason why that couldn't be done. But there was no question of lack of communication of information, it was just lack of any sort of response to the suggestions that it wasn't proper.

**Mr. Grundy:** Mr. Chairman, I might add I understand the Ontario Human Rights legislation has certain anti-discriminatory provisions with respect to insurance. I don't believe those particular provisions have been proclaimed and I am not too familiar with them, but they may have some bearing on this matter.

**Mrs. Campbell:** Perhaps then it would be possible for this branch to hold some communication on the matter to see what could be done about it?

**Mr. Grundy:** When I say this, I am speaking for myself personally. Lear Wood, our

actuary, actually is a member of the task force working with this particular group.

**Mrs. Campbell:** But it just seems to me that if you are required to pay the same premium under the same conditions—age, and so on—that you should be able to provide the same coverage to both groups.

**Mr. Chairman:** Mr. Singer? Was that the last point?

**Mrs. Campbell:** Yes, thank you very much. If I may be excused?

**Mr. Singer:** Mr. Chairman, I know the minister will be very disappointed that I have raised the question I am putting before him.

Some time ago I asked in the House for a full report to be tabled and the minister said he was tabling the recommendations only, and would take the question of tabling the whole of the report under careful consideration. As I perhaps also indicated to the minister, certain concern had been expressed to me that perhaps the report cannot be examined fully and all of its implications properly understood unless the whole report is made available.

Could the minister tell us whether or not he is now able to table the whole McWilliams report? If so, when, and if not, why not?

**Hon. Mr. Clement:** You don't leave me many options, do you, with that kind of question?

Yes, I received the report, I would say, about last October—early October, very shortly after I came into the ministry. I have personally read the report twice. It's a very voluminous report, I believe some 384 pages. It is a mimeographed type of report.

Some of the recommendations within that report deal with the administration of justice and deal with the Ministry of Health. I would say possibly two to three months ago I sent copies over to counsel for both of those ministries, asking for their comments. I have not heard back from them, but that doesn't mean that I'm going to wait forever for it. I think they've had sufficient opportunity to examine it and to be made aware of the contents of it—and then I'm going to make the report available.

I'm somewhat concerned about the size of the report and the cost of producing a sufficient number of copies, but I think in the best interests of all concerned the report should be made available. The reason I put the recommendations in initially, was to draw

attention to the fact that we did have a report, that the recommendations were available. They were not edited, they were just the basic recommendations—some of which I'm sure the government will agree with and others the government quite possibly will disagree with.

The industry will take positions on it as will solicitors and other interested parties. But I anticipate possibly in the next 10 to 12 days filing a copy in the House and ordering a sufficient number of copies from the printer.

**Mr. Singer:** I doubt very much, Mr. Minister, whether all my colleagues in the Liberal caucus are as anxious as I am to receive a full text of the report. Perhaps you could start off with just making one available to us. That might cut down on your cost and we might undertake to provide extracts from it to those others who are interested.

**Mr. D. M. Deacon (York Centre):** They wouldn't need more than one copy in the House, would they? What does the report deal with?

**Hon. Mr. Clement:** Insurance claims.

**Mr. Deacon:** The way they are dealt with?

**Hon. Mr. Clement:** Yes.

**Mr. Singer:** I gather then that really the key statement—the key message you are sending out—is that within 10 to 12 days you will make available that—

**Hon. Mr. Clement:** On the 13th day, if I should overlook it, but I can count on you to jog my memory.

**Mr. Singer:** I will hasten to remind you, yes.

**Hon. Mr. Clement:** Fine. I will sit here waiting.

**Mr. Singer:** We've noted your quick recall today. Now, further in line with the McWilliams report, is the minister as yet prepared to indicate which, if any, of the recommendations the government is prepared to accept?

**Hon. Mr. Clement:** No, I'm not prepared right now to indicate that, Mr. Singer, and I will tell you why. Obviously, the insurance branch has been looking into it very carefully and we are almost to that point. The superintendent has been absent through illness and he just returned one week ago to the ministry. I hope by probably midsummer or later on in early autumn we will have certain portions of the report that we're pre-



pared to accept and others that we are not prepared to accept. But I have got to rely very heavily on his assessment of each item. I think there are some 70-odd items.

**Mr. Singer:** A very substantial number.

**Hon. Mr. Clement:** Yes.

**Mr. Chairman:** Any questions, Mr. Deacon?

**Mr. Deacon:** Yes, Mr. Chairman, I didn't gather—because I was in and out a bit last night—whether—

**Hon. Mr. Clement:** We covered everything.

**Mr. Deacon:** —the ministry's green book is what the ministry considers a proper table of comparison insurance rates among the various insuring companies, or whether it's just a table of experience—is it? I was hoping that the department might be thinking of providing Ontario insurers with the same sort of tables that are now available in the State of Pennsylvania. I talked about these earlier in my remarks.

**Mr. Chairman:** Mr. Grundy, as I recollect, commented on the green book and also on the review of that green book by private consulting firms.

**Mr. Deacon:** I do remember that the green book had some experience. But did I understand Mr. Grundy to say that because of the complexity in various types of contracts it was not possible to put out comparative rates?

**Mr. Grundy:** I don't recall saying anything like that at all. The green book is a compilation of facts.

**Mr. Deacon:** Right. Would it be possible for the department to provide tables showing comparative rates, as has been done in the State of Pennsylvania, so that those people shopping for automobile insurance can get some ideas about that area?

**Hon. Mr. Clement:** Stone and Cox used to put out comparative rates for life insurance companies. Is there something similar for automobile coverage?

**Mr. Grundy:** Not that I know of, sir. Mr. Dennenberg, my opposite number in Pennsylvania, has put out what he calls a shopping guide for life insurance premiums.

**Mr. Deacon:** I was hoping we might put out an Ontario guide, a shopping guide for—

**Hon. Mr. Clement:** Life insurance?

**Mr. Deacon:** —automobile insurance. It is something that is important in people's lives. We should also produce one for life insurance sometime. I think these comparative tables would really make the information we provide meaningful to the ordinary consumer, much more so than any pamphlet telling them all the things they should look for in insurance.

**Hon. Mr. Clement:** On a question of cost, I would prefer it if the company presumably quoting the lowest rates, saw fit to publish comparative rates in the insurance field.

**Mr. Deacon:** You are talking about spending a lot of money—

**Mr. P. D. Lawlor (Lakeshore):** You are really facetious.

**Mr. Deacon:** —for consumer protection. Really it seems to me that your money could best be spent, and would get much greater consumer attention and study, if you did something that really means something to them, such as comparative tables on auto insurance.

**Hon. Mr. Clement:** I would question the cost quite seriously. I don't question the value of a comparative text.

**Mr. Deacon:** The cost shouldn't be great for this. You already have your people compiling it.

**Hon. Mr. Clement:** But think of the sheer volume of the publications. How many would we require? A hundred thousand? I don't know.

**Mr. Deacon:** I would think the cost of printing a compilation of insuring companies and their rates, would not be expensive at all. Knowing how much it costs to produce 25,000 reports for our constituents, you are not talking about tens of thousands of dollars. You might be talking about—

**Mr. Lawlor:** It's the cost of preparing a speech and running it off for Clement for use at Rotary clubs.

**Mr. Deacon:** That's right.

**Hon. Mr. Clement:** I suppose when you put it that way it sounds pretty sensible.

**Mr. Lawlor:** Good for you.

**Mr. Singer:** The pilot has his ups and downs.



**Mr. Chairman:** I am sure the minister will take it under consideration.

**Mr. Deacon:** But I urge the minister to take this approach to publicizing consumer information. It is far more sensible than a lot of philosophy you might put out in folders—or precautions, in any case. Comparative borrowing rates are another thing—when it comes to borrowing from loan and finance companies. I think these things should be done in tables. They are not expensive folders, they are things that can easily be run off and easily updated each year. I urge the minister to follow that approach.

**Mr. Chairman,** another subject I wanted to cover briefly was whether there is any law currently on the statute books which covers the insurance of vehicles which are leased? For example, somebody goes in and rents a car. I guess they have to have insurance, but what if they rent a trailer? Does there have to be insurance on that trailer before it can be leased?

**Hon. Mr. Clement:** The car certainly has to be insured.

**Mr. Deacon:** What if somebody goes out and rents a trailer? What's the rule with regard to insurance on that trailer?

**Hon. Mr. Clement:** I can't tell you whether it's mandatory or not under the Highway Traffic Act or any of our legislation. Do you know if the trailers—

**Mr. Grundy:** I don't think it is mandatory. I think the vehicle certainly is. Either that or you have to show evidence of participating in the Motor Vehicle Accidents Claim Fund. But not in the case of a trailer.

**Mr. Deacon:** Don't you think it should be? When people get those forms that have a whole lot of fine print on them, the companies say: "Now sign this and give us your deposit. And they hook up the trailer and away they go. They usually feel that they are in the same position as when they rent a car. With cars, you've got coverage and you know what the limits are. If you want to have the full coverage, you pay an extra \$1 a day or whatever it is. But when it comes to renting a trailer, I doubt if anybody gives insurance a thought.

I know of one florist outside the city who was shipping plants to Winnipeg last year. He rented one of those heated trailers and the unit jack-knifed on the other side of Thun-

der Bay. There was a \$10,000 loss as a result of fire—

**Hon. Mr. Clement:** To the contents or to the trailer?

**Mr. Deacon:** To the trailer. It burned, exploded, and the whole thing went up in smoke. Although the tractor was covered, the trailer wasn't. He got quite a surprise when he got that bill and found there was no way he could get out of paying the damages. He thought that when he signed that lease form he was in the same position as he was when leasing the tractor—that there was coverage on it.

I feel that if there isn't coverage, we should require that any leasing form used in this province carry, in good bold print, a notice to this effect so at least the person will be aware of this. I've drafted a private bill, which I'm going to be introducing tomorrow, on this matter. But I do feel that you should take a good look at the situation because people could easily be caught. Particularly with all those camping trailers people are leasing. They should know whether people are covered in the lease agreement. Otherwise we could have some serious damage claims.

**Hon. Mr. Clement:** It is a novel point. I've never heard it discussed before. You usually pay an extra \$1 or \$2 to cover yourself for the deductible portion on the vehicle—on the car when you are renting.

**Mr. Deacon:** On a car. But I had never even thought about a trailer and neither had this—

**Hon. Mr. Clement:** I take it that your florist was negligent and that was why he was stuck with the damage to the trailer.

**Mr. Deacon:** It was a straight jack-knife on an icy road. I don't know whether he was negligent or not. It was Christmas time; the unit slid, there was nothing he could do. It was one of those accidents which sometimes occur.

**Hon. Mr. Clement:** Do you have a copy of that contract or could you get one?

**Mr. Deacon:** Yes, I will get one for you.

**Hon. Mr. Clement:** I am just curious to know whether when he signs the contract he warrants that he will produce it at the end of the trip in the same or reasonable or acceptable condition.

**Mr. Deacon:** He just went to a place where they leased trailers and got the rate on it. It seemed satisfactory so he signed the lease and left.

**Hon. Mr. Clement:** It seems to me that if he was stuck—just from your brief description of the accident—he might be liable in contract but not in negligence. I don't know.

**Mr. Deacon:** I will certainly get that for you.

**Mr. Singer:** I would wonder on that point, Mr. Chairman. When you lease what is described in the statute as a motor vehicle, the owner continues to be liable. So for his own protection the owner would have to have insurance.

**Mr. Chairman:** I wonder if it is mandatory? The owner as a matter of good business practice would keep it up—

**Mr. Singer:** With a trailer I think it still would be good business practice for the owners to have—

**Hon. Mr. Clement:** About \$10,000 on his trailer.

**Mr. Singer:** —property damage insurance on that trailer because—

**Hon. Mr. Clement:** For his own interest.

**Mr. Singer:** —conceivably the lessee might demand it as judgement proof and the owner would want to protect his own interest.

**Mr. Chairman:** In this case it may be that the owner was insured.

**Mr. Deacon:** He wasn't. He had to pay the bill out of his own pocket. There was no insurance—

**Mr. Chairman:** The lessee had to pay the bill, but that doesn't mean the owner wasn't insured.

**Mr. Deacon:** I will get a copy of that contract. There is one more point—

**Mr. Singer:** It should have been the insurance company that went back against the lessee.

**Mr. Deacon:** —that involves these same contracts with the fine print. One of the agents that I was talking to felt it very important that we make it a general practice, as we do when we draft a bill for the Legislature, that there be an explanatory note beside the legal language. He suggests that some insurers have, commendably, broken new ground

by having a policy which follows standard or statutory form, but which has explanatory marginal notes.

This would mean that with all our insurance policies an ordinary person like myself, who hasn't had legal training and can't get through all that legal language, would have something alongside which tells him what it is all about in simple terms. I urge that the minister have his department make that a requirement. I think it would certainly lessen the possibility of an insured person not knowing what his coverage is.

**Hon. Mr. Clement:** The explanatory note, of course, doesn't form part of the statute—

**Mr. Deacon:** No, it doesn't.

**Hon. Mr. Clement:** —and I wonder if we would have people vexing Larry White on the explanatory note. You tell me it isn't exactly a précis of what is contained on the opposite side of the page. So perhaps you should have an explanatory note dealing with the explanatory note. You know what I am trying to get at.

**Mr. Deacon:** This agent points out that the larger corporate buyers insist that their brokers provide them with a summary of what their coverage is. If that coverage doesn't live up to what the general indication is, then there is difficulty. I just feel that if this is something large buyers expect, we certainly owe it to the ordinary individual.

**Hon. Mr. Clement:** I have had some discussions with representatives in the insurance industries. I've been suggesting to them that they might include what almost amounts to a checklist. It doesn't necessarily form part of the policy, but is just there as an aid to the consumer. I am thinking of a commercial coverage. The fellow could just go down there and tick these things off. If it included fire coverage in the amount of \$25,000, it would be filled in. Things like inside and outside robbery, broken windows and so on would be ticked off so that, almost at a glance, a consumer could see what he is covered for.

My experience has been that if somebody has had a loss—a business loss—and there has been say a holdup which the company has denied, then the client comes into the office. The company man looks at the policy and says: "Where was the holdup?" Then he says: "It was right at the till." The official says: "Yes, you are covered for outside robbery but not inside robbery." Of course, the consumer is very angry because he invariably



goes to his agent and says: "I want protection for everything." He thinks he gets the package deal, doesn't look at it, puts it away for safekeeping and finds out after the horse has been stolen that he wasn't covered for something when the loss arose.

**Mr. Deacon:** There was a very good example of this guarantee, or simple outline of what coverage is, given by the General Steel Wares man last night in our warranties workshop. He showed what they are giving people now when they buy an appliance. It pictorially shows what's covered by a one-year guarantee and what's covered in the additional four years. It is so simple to read it that hardly anybody would make a mistake about what the coverage is.

I just feel since our role in this department is surely one of informing the public, of disclosing to the public what they are buying, that that is something we should bring into effect and implement in this department—things that will make it quite readily apparent to the buyer what he is getting. I realize it is more complicated perhaps than warranties but warranties are pretty complicated too. Yet they are doing it pictorially in a way that anybody could understand.

**Mr. Chairman:** Thank you. Mr. Young.

**Mr. F. Young (Yorkview):** Mr. Chairman, I don't know whether the certificates of mechanical fitness that the minister mentioned some time ago come in this particular spot or not.

**Hon. Mr. Clement:** We are involved to some degree. Yes, we are, Mr. Young.

**Mr. F. Young:** Some time ago, as you will recall, there was quite a spate of publicity about the illegal selling of these certificates of mechanical fitness for used motor cars. I wonder what has happened since that time with respect to this practice. We have heard very little since then. There was a big blow-up and then, more or less, silence. I wonder if the minister could comment on what steps have been taken to ensure that this sort of practice has been minimized since that date.

**Hon. Mr. Clement:** Mr. Young, our ministry touches on this legislation under the used motor vehicles legislation. Under that legislation it is provided that if a certificate is fraudulent, or something of this nature, the dealer is liable to a fine. Under that legislation there is nothing whatsoever to impose on the mechanic other than a very minimum monetary penalty. I think it is \$50 a mini-

mum of \$50 and a maximum of \$200 or something of that nature. Roughly that's the area that it covers.

Three or four months ago—five months ago—I wrote to the Minister of Transportation and Communications (Mr. Carton) and to the Minister of Colleges and Universities (Mr. McNie) to ask them if they would consider imposing even greater penalties on the person who in fact gives a fraudulent certificate. These are fraudulent in the sense that the cars have not been examined per the regulations that set out how the examinations shall be conducted and what will be examined. Our experience has been, from the motor vehicles side, that it is very unlikely that a straight fraudulent certificate will be given—that is, where there is no inspection at all contrasted to an inspection that doesn't cover all the items.

**Mr. F. Young:** A hurried once-over.

**Hon. Mr. Clement:** Yes. I have heard and read in the press that there is apparently some kind of practice in existence of selling these certificates. I question whether it is much of a business. I understand that they charge anywhere from \$10 and up to do an inspection. In any event it would seem to me that the person would say: "I won't sell you a false certificate signed by me and have you put in the date and the name of the car, the description of the car. Bring it down, or I will come down and look at it." Then he just walks around the car and hands over the certificate. But this at least placates his conscience that he has seen the car.

I think there has to be an even greater reposing of the responsibility in one ministry as opposed to having certain responsibilities vested in three. It is always so easy to say, "Well, T and C are looking after it, or should be" or "I could be looking after it" or "Colleges and Universities should be looking after it."

**Mr. F. Young:** The buck has to stop somewhere.

**Hon. Mr. Clement:** It has to stop somewhere.

**Mr. F. Young:** To make it efficient.

**Hon. Mr. Clement:** I don't think any of the ministries want to assume any more jurisdiction than they already have. I don't think that is such a wise decision but in my ministry, for example, if we had the sole responsibility for car inspections, then we would get into training programmes for the require-



ments to be a mechanic. That comes out of the Ministry of Colleges and Universities and we start to get an intermingling. It is one of jurisdiction, quite frankly, and this is the problem.

**Mr. F. Young:** This whole field seems so important in present-day life that it seems to me there should be some department of the ministry which is seized with this responsibility, right through from the handling of the motor vehicle, perhaps the training of mechanics, the inspection and examination of mechanics, and certification. This whole thing is desperately important.

I understand that today there is a shortage of trained mechanics and some emphasis must be put there. Perhaps this is one of the reasons why we are getting this underhand under-the-table certification of vehicles—because companies don't want to be bothered with it; they don't want to spare the mechanics for doing it and the mechanics find it an easy way to make a spare buck. With the whole thing being in short supply and with divided jurisdiction, we are just not getting at it in any effective way.

**Hon. Mr. Clement:** It is under active consideration. I don't mean to imply we are sitting back and just hoping the problem will go away because it just can't be resolved on that basis. It is under active consideration as to how we are going to approach this thing and who is going to be seized with the responsibility. I think it is pretty obvious from our comments a few moments ago that there are certain areas of doubt, certainly in my mind, and I am not happy with the way it is now with the splitting of the jurisdiction.

**Mr. F. Young:** How do we find out whether, in fact, the vehicle has been properly inspected? Does it rest with subsequent events in which the vehicle may be involved in an accident or breaks down, and it is obvious at that point that this vehicle was sold with a defect which was not caught by the certification?

**Hon. Mr. Clement:** That is one way in which it arises. Another way in which it arises is that certain consumer organizations have actually taken a car with a known defect to a mechanic. The mechanic inspects it; the routine inspection done per the regulations will certainly indicate the defect. If that defect is not observed, there is a complaint lodged that he obviously didn't inspect or, if he did, he didn't inspect it in a proper fashion.

**Mr. F. Young:** But there is no spotchecking by any department?

**Hon. Mr. Clement:** Only the routine spotchecks that the Ontario Provincial Police and municipal forces do from time to time in municipal areas. They will catch only very obvious defects.

**Mr. F. Young:** When the spotchecking is done by the OPP, for example, on the highway or in the lanes set up in the various towns in the summertime, at that point do they ask for the driver to show a certificate of mechanical fitness?

**Hon. Mr. Clement:** No.

**Mr. F. Young:** I suppose there is no way for anyone to know whether that is a new car or a car just bought or a used car.

**Hon. Mr. Clement:** There is no way for him to know it. There are so many defects that the OPP spotcheck wouldn't find. For example, they don't pull the wheel off and look at the brake drums and this sort of thing.

If the man was charged because of an obvious defect in his car, it would certainly be pertinent for him, on the return of that information before the provincial court judge, to say, "I bought that within a week or within 30 days of my being stopped. Here is the certificate that was issued by Joe Doakes, the mechanic, and I don't think I am responsible." That would be a pretty darn good defence on his part, certainly in my mind.

**Mr. F. Young:** Unless he was guilty of purchasing a certificate from a venal mechanic.

**Hon. Mr. Clement:** Oh, yes.

**Mr. F. Young:** Then, of course, he would be quiet.

**Hon. Mr. Clement:** If he was party to it, that would be a different thing. It is the sort of thing which I don't think is that predominant but it happens often enough that we should be concerned with it, because they are dealing with a pretty dangerous piece of equipment.

**Mr. Chairman:** Mr. Lawlor?

**Mr. F. Young:** We are looking for progress over the next period of time, in trying to centralize authority and to enforce the regulations more effectively.

**Hon. Mr. Clement:** It is something we can't turn a blind eye to.

**Mr. F. Young:** A year from now we will have all the answers.

**Hon. Mr. Clement:** Don't I wish we had them all! I wish I had them all today.

**Mr. Chairman:** Mr. Lawlor.

**Mr. Lawlor:** Mr. Chairman, I have several items. I want to recount to you a mystical experience that I have just been through.

**Mr. Singer:** This is even worth turning my chair around for.

**Mr. Lawlor:** The sort of thing I mean is, when sitting in my seat a few moments ago, I had the strongest and strangest impression. I don't mean any disrespect to you. It was a déjà vue, as the French call it, a parapsychological phenomenon which happens every once in a while in one's life. Sitting here, when Mr. Deacon was questioning you, I was positive that I had seen and heard and been all through this before, with the marginal notations. You were sitting there and in these very circumstances. It was you.

**Hon. Mr. Clement:** Maybe we have covered this?

**Mr. Lawlor:** I am going to have to go back and look at the back copies of Hansard.

**Mr. Singer:** Are the estimates all through?

**Mr. Lawlor:** I tell you it was the damnedest sensation.

**Hon. Mr. Clement:** What do you have in that cigar?

**Mr. Lawlor:** I usually don't smoke this kind. This is the marijuana kind they have over at the store at the other end of the building.

**Mr. F. Young:** Does this mean that year after year you go through the same process because the government never makes any progress?

**Mr. Lawlor:** That may be it.

**Mr. Chairman:** I hope it is not because the Chair is granting too much latitude?

**Mr. Deacon:** We haven't discussed that yet.

**Mr. F. Young:** It is a different year.

**Mr. Lawlor:** The Chair couldn't possibly grant too much latitude.

What about twisting? We passed a deplorable Act a little while ago, playing direct-

ly into the hands of the insurance companies. All the commentary and comments that had to be made were made at that time. I don't know if you were the object of them. I can't recall that. I didn't have any déjà vue connected with that particular episode. It was wholly novel.

Well, was it so much so? I mean, it is the history of the government's relationships with this particular industry. In any event, you have seen of recent date a number of articles and wry remarks about the industry. I wish simply on this occasion to refer you to a Toronto Star editorial of Friday, May 11—as recently as that—in which they made some commentary. The lead editorial says:

Up to now Queen's Park and other governments in Canada have acted as if the only thing that mattered in this business was whether the company stayed solvent and able to meet their obligations. They can't lose unless their treasurers abscond with the loot.

In legislating, governments have been far more responsive to the industry's lobby than to the interests of the policyholders. A flagrant example is the Ontario law against what is called twisting, which makes it an offence to advise anyone to cancel an insurance policy with a cash surrender value for the purpose of taking out a policy with another company. This effectively discriminates against placement of expensive permanent insurance.

Has the minister given it any further consideration? I don't think it would be a total loss of Chinese face, or any other oriental, for you to reverse your field in this particular matter. We would not in any way harry you or even raise—

**Mr. F. Young:** We would co-operate.

**Mr. Lawlor:** That is right. We would bless you and—

**Mr. Singer:** That is not necessary!

**Mr. Lawlor:** —pour a little holy water down the back of your neck if you want. What about twisting?

**Hon. Mr. Clement:** Yes, I have some views on twisting. I will ask the superintendent for his comments first, if he has any to make with reference to twisting.

**Mr. Grundy:** Mr. Chairman, there have been twisting regulations or twisting laws on the law-books for some years. They have had to do primarily with one company twisting



against another. It certainly is a device largely to protect the industry and in our mind that was not protective enough of the consumers. We introduced an amendment a year or two ago which extended this to twisting within a company—that is, from one product to another within the one company—and furthermore twisting as between other financial mediums, say mutual funds and life insurance.

We made the twisting laws a little broader, but I must confess, though, that in the absence at the time of detailed regulations indicating how this twisting law would be administered, there was some honest confusion and doubt in the minds of some people—advisers, consultants—because the twisting law was made applicable to anyone, not just an insurance salesman. A lot of people, advisers or consultants, felt that maybe it was being aimed at them.

**Mr. Singer:** Even the lawyers were a little worried.

**Mr. Grundy:** Well, such is obviously not the case.

**Mr. F. Young:** It means simply today, does it, that I break the law if I advise my son, who may have taken a 20-year-pay life policy, that that is not good business; that he should change that to a renewable term policy?

**Mr. Grundy:** Only if there is some ulterior motive. If you are gaining as a result of it—that's about the only way.

**Mr. F. Young:** As a person who is interested in another person, I may give that advice without contravening the law?

**Mr. Grundy:** In the sense of inducing—in the sense of inducing.

**Hon. Mr. Clement:** I think many of us practising law have really urged a twisting procedure on a client. They came in and they are insurance poor and they want some kind of advice. As you go through their programme you find that they are loaded with a very heavy expensive programme that isn't providing what they want; and you suggest alternative programmes to them. Then they go to the agent of their choice and bring those things about.

But if I was selling insurance and suggesting to you that you should drop your coverage in "XY" company and I would sell you cheaper insurance and the same protection or something in "AB" company, then that is twisting.

**Mr. F. Young:** Then why is that wrong, if I am driving a Ford product and the agent of General Motors comes to me and says, "Now, you should get rid of your Ford and buy an Impala," or something else? What difference is there from the insurance agent saying; "You are loaded here with endowments and that endowment has almost run its course, so in effect it's self-insurance. The company is providing you with no insurance whatsoever, or very little, because that endowment has almost run its course. What you should be doing is getting rid of that and taking on renewable term, because you want straight insurance; put your savings into something else where, in case you die, your widow gets the savings as well as the insurance."

That's good advice and I see no difference between the company which sells cars and the company which sells insurance talking about its product to the detriment, perhaps, of some other product—particularly where in this case it's mighty sound advice. If I'm advised to change from a Ford to an Impala, or vice versa, that has nothing much to do with my security or anything else. The other does. It has a great deal to do with my future planning for my estate or my security for my family and all the rest of it. The other guy has given me very bad advice, but he sold the endowment. This is good advice.

**Hon. Mr. Clement:** There are several sides to this problem. You say, what is wrong with it? I've done a little bit of thinking, wondering what is wrong with it.

I did it myself with my own coverage some years ago, and made sure as I applied for a new renewable, convertible term and the agent went through the litany of saying, "Are you going to cancel out any of your existing coverage?" I said, "Why, of course not." And of course when I got the hot little new term policy in my hand, I immediately cashed out the other coverage because I was embarrassed that I was so damned dumb to have purchased it.

I can see some problems. There is some merit in the law; and I'm not talking about protecting insurance companies. I don't think we are here to protect them particularly. There are circumstances—

**Mr. Lawlor:** Curiously, that's the end effect.

**Hon. Mr. Clement:** Yes, it may well be the end effect, but I can think of one instance particularly in which I was personally involved, where a fairly expensive endowment plan was sold to a man. I questioned the



agent about it some years after when the man was in for some advice when I was practising law. I felt the agent had been remiss and it seemed peculiar to me that he would be, because there was a family relationship between the agent and the insured.

But he pointed out to me—and knowing my client as I did, I had to agree he was right—that this man, the owner of the policy, the insured, was a man who, having undertaken a financial obligation, would adhere to it. He was a man who accumulated no money. He spent everything he earned and it was really a forced savings programme sold to him by his brother-in-law, knowing full well that not only would the sister of the agent have the life protection on the way through, but it was forced savings so that some years hence the man would have some cash.

This may not appeal to you or appeal to me, but knowing this individual I could see some merit in that type of sale being made.

I'm wondering if we took away the twisting laws whether we would have the consumers back and very properly objecting to being harassed by the industry, and in turn losing confidence in the industry—with someone coming almost daily saying, "Well, what you bought yesterday isn't really very good; I can give it to you bigger, better and cheaper." I don't know. I really don't know.

**Mr. F. Young:** That might perhaps result in some sense being brought into the whole industry and an emphasis on the protection, rather than on this incredible emphasis on savings—which the person loses if he dies anyway. It just disappears.

**Hon. Mr. Clement:** Well, of course I've always said for years that they should put up a monument 1,000 ft high made out of gold to the guy who invented cash-surrender value.

**Mr. Grundy:** I don't think you have finished. Do you have any other comments pertaining to twisting?

**Mr. Grundy:** Not particularly, except that the accent in future will be on proper disclosure to the prospective purchaser or the person who is being twisted, if you like, so that he completely and thoroughly understands what is going on—the fact that he may, for instance, lose certain valuable rights. Quite apart from the cash values that he may be losing, he may lose the ability to keep insuring himself if it's a non-renewable term policy.

There are all of these things and we are designing and have designed forms and procedures to be used by the salesman or people involved, so that the proper story gets across to the prospective purchaser or the person involved.

**Mr. F. Young:** Perhaps what we should be doing is thinking seriously of removing the whole savings factor from insurance and selling insurance instead of very large investment funds for the corporations concerned. That's all we are doing really in the savings portion. It may be that we should think seriously in the future that we have got to come to the place where insurance companies sell insurance.

**Hon. Mr. Clement:** Of course, people buy insurance for a variety of reasons and protection was the initial one when the insurance industry was developed. But we have gone into these other spinoffs and blended programmes. I feel that the current study—and this is one of the items that will be studied very carefully by Mr. Carruthers—will contain some very strong recommendations one way or the other regarding twisting.

He's very concerned about the concept of the higher the premium the higher the commission, and the conflict that exists—it appears to be a conflict, anyway, in the mind of the agent. Is he really there to serve the purchaser or is he there to serve his own ends; or is it a blended thing? I know many of us who have purchased expensive insurance and later had the experience that I had, are almost embarrassed to admit it. But when you start comparing programmes—

**Mr. F. Young:** You've changed your plan from a savings sort of thing, an investment fund for a company, to protection for yourself and your family?

**Hon. Mr. Clement:** Right!

**Mr. F. Young:** And this is the thing. I think sometime we have simply got to think in terms of the welfare of the person who is buying insurance. If he buys the term and then he puts his savings into a bank, when he dies his wife gets the full face value. She also gets his savings in the bank. Whereas, if he buys the endowment or the 20-pay-life, she only gets the face value and nothing else. His savings go down the drain.

I know the insurance industry has its actuarial answers to all these things and so on—that they can sell cheaper insurance this way—but let's get the mortality tables up to date

and let's think in terms of insurance rather than investment. I think when we do that we don't have to worry about twisting or anything else.

**Mr. Lawlor:** By the way, what are the mortality tables being used? What year are they set at now?

**Hon. Mr. Clement:** Mr. Grundy?

**Mr. Grundy:** Mr. Wood, what year are we using?

**Hon. Mr. Clement:** The mortality tables—what years are we using.

**Mr. Grundy:** What is the last edition?

**Mr. L. Wood (Research Actuary):** The insurance companies use a variety of tables, but the Canadian Institute of Actuaries publish their experiences on a yearly basis, for their own use.

**Hon. Mr. Clement:** So what is available today? If I wanted the most recent tables from the actuarial institute, what table would you produce? What year would it be?

**Mr. Wood:** Oh, 1958, I believe.

**Hon. Mr. Clement:** The 1958 tables.

**Mr. Grundy:** I think you'll find a later one.

**Mr. Singer:** It's a fascinating anomaly that when a calculation is done for dower, then I think it's Cameron's tables that are still used. Those go back, I think, to 1870 or 1880, and our courts still use those tables when an order is made to pay an amount into court in lieu of dower.

**Mr. Lawlor:** That's why dower is not very valuable.

**Mr. F. Young:** And insurance rates are set on tables, I think, that go back prior to 1968—away back, 20, 30 or 40 years.

**Mr. Wood:** The insurance companies use a variety of tables.

**Mr. F. Young:** Exactly. It depends on whether it is to handle their own business, or the business of knowing exactly where they stand, or the business of selling insurance.

**Mr. Wood:** The reserves are based on several different tables, too. All of these tables are very close together. They don't represent a wide range of changes. They represent gradual changes.

**Mr. F. Young:** But they're, let's say, on the safe, conservative side.

**Mr. Wood:** Yes, we would say that.

**Mr. F. Young:** And many of them don't take into account the advance of medicine in recent years.

**Mr. Chairman:** Mr. Lawlor, did you have further questions?

**Mr. Lawlor:** No, I'm still going—

**Mr. A. J. Roy (Ottawa East):** Just on twisting, could I ask one question?

**Mr. Lawlor:** Well, I'm still on twisting, but go ahead.

**Mr. Roy:** How many charges have you laid under that? Are you enforcing that law? Are you laying charges under that?

**Mr. Grundy:** Do you wish me to answer the question, Mr. Minister?

**Hon. Mr. Clement:** Yes, go ahead.

**Mr. Grundy:** It's usually enforced as between the agents and companies themselves. We've had, I think, very few official complaints or charges with respect to twisting that we have had to police, or investigate.

**Hon. Mr. Clement:** I think they're all scared of it.

**Mr. Roy:** You say it's done between agents and companies. Well, it's an offence against what statute if you're guilty of this?

**Mr. Grundy:** The Insurance Act.

**Mr. Roy:** The Insurance Act? But it's enforced by the insurance companies, you say?

**Mr. Grundy:** The instances that are reported to us are fairly few and far between. Mr. Thompson, you have charge of that area. Would you like to comment on that?

**Mr. M. A. Thompson (Deputy Superintendent of Insurance—Legal):** I think the difficulty is that the majority of complaints that come in are disputes between agents, and the offence itself is the inducement of the individual or policyholder. In my recollection, only once in the last year did we actually have a complaint from a policyholder. In that case we did investigate and took away the licence of the agent.

**Mr. Roy:** For doing that sort of thing?

**Mr. Thompson:** Yes.

**Mr. Roy:** So there was one instance in the last year that you—



Mr. Thompson: Yes.

Mr. Roy: So really it's not something that is on top of the customer every day sort of thing. It's not—

Mr. Thompson: You see, both the companies and agents adopt this; it's part of their training and they're aware of this.

It does have a deterrent effect by the fact that it's there and it's part of the agent's training, and he must be examined on this in order to get a licence.

Mr. Chairman: Mr. Lawlor, would you continue?

Mr. Lawlor: Are you quoted correctly when you say some means must be found of allowing competition to be introduced and of affording as much protection to the policyholder as at present? Is that a correct statement of what your position is?

Hon. Mr. Clement: Generally.

Mr. Lawlor: Have you considered, for what it's worth, their particular method of reparation: "Allow replacement of policies, but require the agent advising a policyholder to change to notify the other company, which could then make a counter proposal, say within 15 days." Has that any merit?

Hon. Mr. Clement: It might have merit. I read that editorial with some interest and that comment is not attributable to me.

Mr. Lawlor: No.

Hon. Mr. Clement: It's a practical suggestion, or a suggestion as to how the procedure might be carried out.

A good number of my experiences with insurance agents and people buying insurance indicate, again, it's more of a personal relationship than anything else. At least, from my experience in it. You deal with a man that you've known; you met him through your church, or some connection. There's some association there.

I've never been approached by a complete stranger, that I can recall, saying, "I've got your name and I would like to sell you some life insurance." There's always been some connection one way or the other. Mr. Thompson may have some comment on this.

Mr. Thompson: Well, the only difficulty with imposing time limits is the position of the individual who's going on a trip and wants to buy insurance. If you're delaying

his insurability for 15 days, you've got to find another means to deal with it. And this is one of the problems with twisting; it's not unique in Ontario.

Mr. Lawlor: Well, depending upon where he's going he should certainly buy term.

Down further it speaks of the industry generally—about points I wish to raise on that head, such as the high rate of lapse. Can you give us any statistics on the high rate of lapse and, secondly, on the business of surrender, in the past year?

Hon. Mr. Clement: I think studies in the United States indicated lapse rate policies last about an average of—seven years, is it?

Mr. Thompson: Twelve years.

Hon. Mr. Clement: Twelve years?

Mr. Lawlor: Any figures for Canada—or Ontario rather?

Hon. Mr. Clement: I don't think—

Mr. Thompson: We're reviewing it now.

Hon. Mr. Clement: You are reviewing it now for Ontario?

Mr. Lawlor: I expect to wend back here next year—

Mr. Grundy: Again, may I? If you are looking for an industry-wide figure, that's something, but it varies quite substantially from one company to another.

Mr. Lawlor: I would like the sum total against the sum total to find out just what the percentage rates overall are. As I was going to say, you know, in Mr. Silver you've got a masterful workman there. He is really going. By next year we're going to be just massively overdone with statistics and information. We're a little bereft this year, I think, but we are looking forward to better things.

Hon. Mr. Clement: Well, you know, I've moved this year and had marital troubles and that sort of thing, but we're settling in! And you're going to retort by saying, "Doesn't everybody?" I know!

Mr. Lawlor: One final thing on this head and I have a number of other heads before you cut me off—or I cut off a number of other heads.

The quality of training, in a business where there is such a high turnover rate among salesmen. Have you any statistics or any



investigations about this particular phenomenon in the industry?

**Hon. Mr. Clement:** I'd like to say "next year"! The figure of about 2,700 individuals sticks in my mind. Am I close on that?

**Mr. Thompson:** It is about 2,000 per year. There are terminations; I think 2,700 was the figure for last year, but 700 of those went on with other companies. So the actual figure for those who dropped out of the industry was about 2,000.

**Hon. Mr. Clement:** The loss to the industry is about 2,000?

**Mr. Thompson:** You're talking only about life insurance and you're talking about 14,000 licensed life insurance agents.

**Mr. Lawlor:** That is high; that's very high. No wonder, you know, the way they go into the industry. Some of my friends get into difficulties at times—and as you say, it's always a very personal relationship. If he happens to be down at the heel at that particular period of his life—you know, in between bouts of the heavyweight championship and he's not really in training—he ends up in my parlour trying to sell me some whole life and I don't even know what it means, nor do I want to.

I want to deal with the minister's report, for a few minutes, if I may, on insurance claims. I wait with anticipation and trepidation and longing for the full report, because it's certainly a damning indictment of this particular area, this particular department, as to the oversights, the slipshoddedness through the years, the failure to grapple. And I am sure that we see a new day dawning in this regard, largely because of the impact of this report, or at least, it must be so.

Read through it and go through the recommendations one by one. The central *bête noir* in this whole thing—a guy called an adjuster for the companies—apparently uses every piece of trickery in the book. You read between the lines as to what they must do to pull up their socks, or rather to completely refurbish their attire from toe to toe and every conceivable head. Even a simple thing like recommendation 13, that the so-called independent insurance adjusters should be required to characterize themselves as company adjusters—a piece of pettifoggery involved in it. They are all independent, as though they had some kind of neutrality in the thing and have all been hired by the insurance companies and go around praised. It's certainly a profound form of fraud.

Or the comments made at page 18 in the recommendations about collision damage, that the

... practice of insurers and their adjusters in delaying or failure to pay collision claims of their policyholders on the ground that the money will be collected from the third party or his insurer, or is likely to be so collected, should be characterized as "unfair settlement practice" and incorporated into the governing principles to which we have referred.

The central part, at the beginning of the report, speaks of the nature of delays—delays of all conceivable kinds, delays in the payment of the repair bills, which I am sure everyone of us has suffered from at one time or another and which causes the kind of irritation that only a man of the thick skin of Vernon Singer could resist with respect to universal no-fault coverage operated through a respectable agency like the Ontario government.

Under this particular heading, it says, at (4), question:

Whether the cost of repairs is artificially increased if the loss is insured. Yes, because standards of a claimant are usually higher when an insurer is paying, and also because repairmen charge more because of an apparent endemic delay by insurers in paying repair accounts.

There is delay set forth in the thing with respect to the settlements, almost ad infinitum delay. This drags on for years. Now it has been rectified in part by your in-part adoption of no-fault on the personal-injury side of the fence. But on the property side of the fence, for reasons best known to you and, again, with a kind of sychophancy to the industry which does not need your otherwise independent disposition, you have neglected to incorporate into the law.

I trust that your attitudes are slowly being eroded, that you experience more and more of the life of government and not the self-enclosure of the profession itself, that you see the merits in applying this to property as well as to the personal injury situation.

**Mr. Chairman:** I was wondering, Mr. Lawlor, if you were quoting yourself there?

**Mr. Lawlor:** In what conceivable respect?

**Hon. Mr. Clement:** We were wondering if you were reading that, because it's magnificent.

Mr. Lawlor: I find that a kind of back-handed commendation.

Mr. Drea: Oh, Pat, the book of quotes has nothing on you!

Mr. Lawlor: It's a dreadful thing if you get lost to the language and don't get the content.

The language is only there in order to—

Hon. Mr. Clement: It's the problem of consumers now.

Mr. Lawlor: —make it ever so much more pertinent and so much more of a driving force, you know. But I am afraid that with our educational system the way it is everybody gets lost on the outside and never gets on to the inside. I'm going to have another déjà vue in a minute!

Mr. Singer: I don't know whether we can stand two in one afternoon!

Mr. Lawlor: The legal profession, of course, is not to be considered outside this particular condemnation. They say:

The legal profession must share some of the blame for the present state of affairs. Many complaints are made to us of delays in settlement and deprivation of recovery which can be explained only by negligence or incapacity on the part of some claimants' lawyers.

I won't read the whole paragraph. It's page 7, and it does call into question again, as is increasingly done, aspects of the adversary system which, far from advancing the cause of justice, do everything to obstruct and intrude upon its being realized at all. And that's why, in terms of this sort of chapter, one can't help but really be struck at the benefits to the public realm of commissioning reports of this kind and—

Mr. Singer: Provided we can see them.

Mr. Lawlor: Provided we finally get around, yes, to looking at them.

An hon. member: That's a good point.

Mr. Lawlor: There are a couple of areas that I want to mention, too. They have to do directly with the department, and on things, I think, that we had mentioned yesterday.

For instance, recommendation 6(a) says that:

The insurance industry be encouraged to establish an independent panel or review board to provide continuous scrutiny of the financial solvency of all Ontario

licensed insurers, and that such panel be given statutory recognition and report to the superintendent annually and more frequently from time to time as he may see fit.

Now, what in blazes can that mean? I thought precisely Mr. Grundy's task in his department was to be cognizant of the surveillance over the financial solvency of Ontario companies. But here it is, a report coming in to us asking that a panel of the industry be so established. What is his explanation of that?

Mr. Chairman: Would you like the minister to comment on that, Mr. Lawlor?

Hon. Mr. Clement: Well, I don't agree with that recommendation. That is precisely one of the functions of the superintendent's office, and with the greatest respect for the writer of the report, and to the people on the committee, Mr. Lawlor, I think more independence is maintained and benefits are accrued to the public by having the superintendent's office perform that function than to have a panel or a board consisting of people from the industry maintaining such vigilance.

Mr. Lawlor: And the implication is that they don't do it, but your statement is that of course they do.

Hon. Mr. Clement: My statement is that they do.

Mr. Singer: Well, could I interject just at that point? We had an experience at the time with Prudential when the group—was it the Prudential or Atlantic that collapsed, that brought with it two small insurance companies? And I wonder if Mr. McWilliams might have been caught up in some of the claims that I guess went out of the window. That's one of the views there.

Hon. Mr. Clement: Yes.

Mr. Singer: That's the first time in my recollection that any Ontario insurance company has gone under.

Hon. Mr. Clement: Yes, I think that was the Wentworth.

Mr. Singer: Wentworth, and there was another one.

Mr. Grundy: Mr. Minister, if I may, I have some news for you which I haven't had a chance to give you yet. We have just recently learned that Wentworth, in addition



to paying off all claims more than 100 per cent, has declared a dividend to its shareholders, Prudential.

**Mr. Singer:** Really? Well, there were two companies there, weren't there?

**Mr. Grundy:** North American, which is a federal company.

**Mr. Singer:** Yes, what happened to theirs?

**Mr. Grundy:** I don't know anything about the federal companies. I don't audit them.

**Mr. Singer:** Well, did Wentworth come back again and continue in business or was it put back?

**Mr. J. Silver** (Deputy Superintendent of Insurance—Finance): No. It was wound up.

**Mr. Singer:** It was wound up. And the Prudential people—who's paying off the claimants?

**Hon. Mr. Clement:** No, no. I think you are confusing Prudential Finance.

**Mr. Singer:** No, no. What did you say, again, Mr. Grundy? Perhaps I misunderstood you.

**Mr. Grundy:** That Wentworth Insurance Co., which was owned by Prudential Finance, had been declared bankrupt and it's gone through the mill. It has liquidated all of the assets and has come up, after paying all legal, trustee and other expenses, with more than sufficient to pay 100 per cent of the claims.

**Mr. Singer:** All of the claims that were outstanding prior to the bankruptcy?

**Mr. Grundy:** So it obviously wasn't bankrupt to begin with. In addition to that, it has some money left over to pay back to Prudential Finance.

**Mr. Singer:** Isn't that interesting? I didn't know that. And the North American one?

**Mr. Grundy:** I am not sure of the final outcome of that. As I say, that is in the federal jurisdiction and I haven't followed that closely.

**Mr. Silver:** It is still being wound up.

**Mr. Singer:** How many years ago was that? It seems to me I had a file or two in my office and we just gave up on it.

**Hon. Mr. Clement:** Wasn't it 1966?

**Mr. Grundy:** Oh, yes, about in there, 1965 or 1966.

**Mr. Singer:** I will see if I can remember and dig it out.

**Mr. Grundy:** The latter part of 1966.

**Mr. Silver:** A permanent liquidator was appointed in 1967.

**An hon. member:** It would help you earn a little fee there.

**Mr. Singer:** I was wondering along that line. I suppose we are really going to have to wait until you have digested these things and come forward. In the light of that recommendation I wonder whether there is any feeling that either the industry should stand behind other members of the industry who get into difficulty, as brokers do now, or because the government exercises this supervision, whether there be some kind of government responsibility in this kind of an event.

**Hon. Mr. Clement:** I certainly think it is the duty of the superintendent's office to satisfy itself constantly that the financial operations of an insurance company are such that no ultimate victim of someone insured with that company is going to end up being the real loser. There is no question about it. Needless to say, I am pleased to hear your comment there which I heard now for the first time relating to Wentworth. That was the way it appeared it was going to occur. Someone who was innocent and had nothing to do with Wentworth but was injured by a Wentworth insured person, who in turn was acting in good faith—

**Mr. Singer:** I can remember one claim that was settled and Wentworth had agreed to pay, and then whoosh! they didn't get anything.

**Hon. Mr. Clement:** I suppose the insured would be the ultimate loser if he had any assets, because your judgement would be against the insured, as owner and driver presumably, or some combination. If he had assets to liquidate the judgement, the victim of the accident would proceed under that writ and make a seizure, and he would have no one to indemnify him. So I suppose he is the real loser, unless you had an absentee driver who just took off, or something of this nature.

**Mr. Chairman:** Any further questions on item 3? Mr. Singer?

**Mr. Singer:** Yes.



**Mr. Chairman:** I guess Mr. Lawlor didn't finish his question or his comments.

**Mr. Lawlor:** I am just coming in for a landing.

**Mr. Singer:** How long are you going to talk?

**Mr. Lawlor:** Oh, I have to go on to another topic immediately.

**Mr. Singer:** On insurance?

**Mr. Lawlor:** Trust and loan corporations, not insurance.

**Mr. Singer:** All right, I will wait.

**Mr. Lawlor:** Do you anticipate adopting some of the recommendations of this report that there would have to be an extensive addition to the staff of the insurance branch? I am thinking, particularly, of a recommendation they make that the superintendent conduct regular spot audits of the work of adjusters. We were on to spot audits yesterday, too, in a different area where we felt that insurance companies themselves, life and otherwise, might be subject to this audit. My feeling, as a result of that conversation, is that they are so secure and have such amounts in reserve and what not that that kind of checking is not really necessary. Well, that may be so; but it has been recommended in the case of adjusters in any event.

**Hon. Mr. Clement:** I know that practice prevails right now with agents.

**Mr. Lawlor:** You mean with real estate agents?

**Hon. Mr. Clement:** No, companies. I am talking about people in the insurance industry today who have the right to walk in and review files and this sort of thing. I would welcome your comments whether you anticipate any substantial increase should this recommendation be carried out or not, Mr. Grundy. I don't know what they are.

**Mr. Grundy:** I haven't examined that particular recommendation, Mr. Minister, in the depth that I should have to answer your question properly.

**Mr. Lawlor:** Could you give me an indication of how many spot audits you did last year in these fields?

**Mr. Grundy:** Of agents and brokers? Mr. Silver, how many would you have conducted during the year?

**Mr. Silver:** I don't know about spot audits, but I understand we did about 50 routine ones or slightly more than that.

**Mr. Grundy:** These are examinations. These are instances where we have gone into an agency to examine its trust account.

**Mr. Lawlor:** That is what you mean, you go into the agency. There is no question of their books or balance sheets being sent to you? It is a visitation to the spot because it takes somewhat longer than just spotting, if you don't particularly want to call it spot audit. You look it over pretty carefully?

**Mr. Silver:** They send in a sort of statement of their financial position and if that statement gives us cause for concern we would then go in and take a look.

**Mr. Grundy:** Go in anyway.

**Mr. Silver:** We would go in and have a look at it.

**Mr. Lawlor:** You don't do it just like the Law Society does—out of the blue—not because there is any indication that there is anything wrong. Every once in a while it spot audits a solicitor?

**Mr. Silver:** What we do in practice is if we happen to be in a certain location, we take the opportunity to visit other agents in that particular area. We have done that. We didn't do so many last year as the previous year. The previous year we did a substantial number of that type of spotcheck.

**Mr. Lawlor:** How many of you are doing it?

**Mr. Silver:** We have one person engaged full-time on that.

**Mr. Lawlor:** You could probably do this yourself on occasion?

**Mr. Silver:** Not myself, no; members of my staff.

**Mr. Lawlor:** Why so much the year before and not so much last year?

**Mr. Silver:** We had a staff vacancy in the past 12 months and this was the problem, but in the previous year we had an extensive number of spot audits.

**Mr. Grundy:** If you wish any further comment on Mr. McWilliams' recommendation there, presumably he has the thought that we might visit an adjuster and, I suppose, review his claim file to see how he has conducted himself during the adjustment process,

but he would not be handling money. It wouldn't be an audit in that respect.

It would rather be an examination of his methods and procedures and whether he was living up to his professional standards.

**Mr. Lawlor:** I think that is true.

**Mr. Grundy:** We again have done that in places where we have felt it desirable or necessary.

**Mr. Lawlor:** To come back to the old bird, as we get an increasing consciousness in democratic institutions, one of the chief things that are coming more and more to light and in evidence are businesses of conflicts of interest. In some fields our sense of awareness about conflicts is almost excruciating, as in securities and insider trading. A year doesn't go by that the Act isn't amended to broaden out the definition. We had considerable discussion on it recently.

It recommends here:

That the Insurance Act contain a specific prohibition against any one of an agent, broker, adjuster or repairman having any financial or other interest, direct or indirect, in the business of any of the others.

That is far-reaching and very profound. You remember what I had to say about investment brokers yesterday in this area, which I think is probably terribly delinquent. Looking it over, it really struck me how does the minister feel about that particular recommendation?

**Hon. Mr. Clement:** I would like to get Mr. Grundy's comments, because my recollection of certain comments may be incorrect. Is that not prohibited now, Mr. Grundy?

**Mr. Grundy:** The Insurance Act as it relates to agents and brokers and adjusters does provide that there mustn't be situations where an agent or adjuster or broker is in a position to exercise coercion. Therefore, a number of professional people are ruled out. They cannot act because they conceivably would exercise pressure in one respect to sell an insurance policy, or something of that order.

There are a number of other rules and regulations which are on the books designed to keep these people honest and doing their proper job. With respect to conflict of interest, Mr. Thompson, are there any specific references to ownership of, say, other businesses which have a—

**Mr. Thompson:** Bearing?

**Mr. Lawlor:** No, just among the four heads that he gave there and their inter-relationship. That's the only conflict thing I found.

Oh, by the way, has the section about coercion been construed by the courts? As far as you know?

**Mr. Grundy:** Has it ever been before the courts? I can't answer that.

**Hon. Mr. Clement:** A general prohibition, Mr. Lawlor, may not even be practical. I can certainly visualize what I would consider a conflict if an insurance adjuster in one area had an interest in a body shop and directed the work be taken there. That's pretty obvious to me that there is a conflict. But if an insurance adjuster in Niagara Falls owned a half interest in a body shop in Ottawa, I can't see where there would really be much conflict. I doubt whether he would be directing much work to the shop in which he had his own interest.

**Mr. Lawlor:** Yes, you would have to be carefully delineative, I'm sure. That's perfectly true.

I just wonder what the word "coercion" might mean. Is it as tough or is it perhaps as soft as—

**Mr. Grundy:** Undue influence.

**Mr. Lawlor:** Undue influence. All right.

The next point I want to raise, and I'm almost finished on this business, has to do with interest. The Attorney General (Mr. Bales) didn't have an opportunity for some reason to bring it up.

In order to expedite lawsuits, interest ought to be brought into effect at a much earlier stage. I think interest arises at judgement now, under the rules of practise. The recommendation here is that except for damages for loss of future earnings, interest be paid on general and special damages—that's pain and suffering—from the date of the service of the writ to the date of payment or to the date of any advance payment made to that extent, and that it be compounded yearly.

I think that recommendation alone will have a great effect. If the interest rates were just a little higher; what is it? Five per cent in the Supreme Court at the present time? Have they raised it to six?

**Hon. Mr. Clement:** Five and a half, isn't it?

**Mr. Lawlor:** Maybe.



**Hon. Mr. Clement:** They vary it from time to time. The Supreme Court accountant invariably sends a notice out.

**Mr. Lawlor:** It varies from aeon to aeon. It was four per cent for at least 20 years when everything else had changed. Then we got it up to five, and I think it's maybe 5½, Mr. Minister, at the present time.

I want you to take that particular provision into account because part of the English Law Reform Commission recommendations with respect to the expediting of court proceedings was based on that concept of the interest being charged at an early time.

One other thing that is of value here, is that they do incorporate into their report a procedure for foreshortening trials. The preliminary hearing motion, either under the head of settling where the liability rises—and this can be done by an originating motion—would make all the difference in the world, if you can move that quickly, subject to cross-examination and examination for discovery and a number of other things.

Apart from settling where the liability lies, then there could be a second hearing or perhaps on that same hearing the damages could be established; or if liability is conceded, then they can move immediately into the damages field and have it adjudicated with rapidity and under that heading.

The report is excellent and I can't give people credit enough for launching into these things, for being exquisitely aware of a host of problems. For instance, the business of extracting signatures or releases from people confined to hospital. In the report they say that this must not be extracted. Neither should statements made by witnesses who are confined to hospital—beggars do this every day of the week now, unless the attending physician's permission is granted in advance.

These things are crated and thrown up in their teeth when they get to trial. As in the case of being harried, in the case when you are very ill and made to make statements that you can't resist because of that illness—these are a constant feature in this particular industry.

If you adopt the bulk of these multitude of recommendations we will begin to move into an area—and I trust that you don't obviate the necessity for a more intelligent and rational system of insurance under government auspices—but this report is precisely designed to do that.

They say at one point that it's not their business, it's outside their policy range, to

make any recommendation touching no-fault to mandatory coverage, yet later on in the report, they break down, as trial lawyers are wont to do, in order to say, "We think it will be a bad thing and you can overlook that particular paragraph." It's an afterthought of theirs—right at the end of the chapter—long before they come to the recommendations.

I'm hoping that one of the tiny tasks I perform while a member of this House is to make some dent upon the armour of the government. I think you are a particularly sensible and susceptible minister and I would like to make some dent on you with respect to introducing a universal coverage—in face of all the lobbying, in face of the trial lawyers who detest and quake to the bottom of their skins at the very thought of the thing. They will harass you into an early grave if you show any courage in this particular regard.

There is a second area I wanted to discuss, and I think if you will give me a little latitude please, Mr. Chairman, I can either discuss it here or discuss it under real estate. If there is somebody else who wants to get something else in on this vote, I'll step back for a moment.

**Mr. Roy:** I'd just like to hear the minister's comments in relation to this question of interest prior to the date of judgement. I think that is an excellent point and it's always one that I've never been able to understand. Why, on a large judgement, does it pay the insurance company to hold off and settle at the courtroom door? I never could see why they weren't forced to pay interest, let's say, from the date that the writ is issued, at least that wide discretion and latitude be given to the trial judge.

I'd like to get that interest incorporated in the laws, because I've seen it time and time again where they hold off and hold off, and just before you are ready to walk in a courtroom then the settlement is made. Then at least a decent offer is made at that point.

I'd just like to hear your comments. Surely I think you have worked in that field.

**Hon. Mr. Clement:** I have no official position on it now. It is being considered. I am not unmindful of some of the problems for the delay. Sometimes they are occasioned by the plaintiff or his solicitor. Sometimes they are occasioned by the insurance company or the solicitor acting on behalf of it. Very much of the time the delay in getting to trial is one that just cannot be helped, in that the



person has suffered such extensive damages that there has to be a fair period of time between the infliction of the injury and that medical point when the doctor says, "Well, you are as well as you are going to be." Then the solicitor for the plaintiff can proceed.

I am also not unmindful of the fact that if the payment of interest imposes, as it ultimately would, higher costs on the companies, those costs are just passed back to the consumer when he comes around next year to buy his new premium of insurance. For the average consumer, if he is paying \$150 a year for coverage for his car, next year he pays \$165 and the explanation is, "Well, now we are paying interest." That won't set too well.

So my mind is very much open on that point. There are problems both ways. There are many recommendations that appeal to me, and one touched on by Mr. Lawlor I found to be extremely interesting—that is the severing of liability from quantum.

Very often if you had a split proceeding and liability was not admitted, then of course you could go ahead and have your hearing while the mishap is fresh in the minds of most of the people. My gosh, it could be held reasonably within three or four months of the accident. As a former practising solicitor, I can see all kinds of advantages coming out of that.

In those damage actions that we have all had—they are right on the line and you don't know whether it is going to be all one way, or the other, or split—you are inclined to think that it is going to be all one way, or all the other, and so you, along with your client, take a calculated risk for perhaps two or three years, and, too, even though you are not delaying his injuries may be such that you can't proceed to trial.

You are subjected to calls from your client wondering what the progress is on the file and routine letters, all adding to the cost. Then you get to the trial and by the fact you have been retained, the fact that you have talked to this man or woman and spent a lot of time with him, or her, provided a lot of information services, and some three years later he finds out that he's been none suited or liabilities assessed against him are 100 per cent, or a substantial portion, he has to identify.

That is the mishap to him. The accident is now history. But today that mishap he heaps on your shoulders. He believes that it is your fault.

What I am saying is if there is no liability I think it is better for all concerned, includ-

ing the victim, that he find out early in the game and save a lot of fruitless exercise in proceeding any further. If there is no liability that is the end of the ball game. I find that very appealing as a lawyer.

**Mr. Roy:** I couldn't agree with you more. It is ridiculous. Sometimes you are in court and first of all the judge gets into the question of the assessment of damages and says that the liability rests on the other side.

**Hon. Mr. Clement:** We had a case in our office a year or so ago which had happened three or four years before, very terrible injuries. By the time we were ready to go to trial the lone hitchhiker, the only witness other than the parties themselves, had joined the American army and we had to bring him back from Germany. There was the expense of bringing that young man back from Germany, the long distance calls to his commanding officer and all this nonsense, but thank goodness he came. We had no way of compelling his attendance, and yet at the time of the accident he lived two or three miles down the road and was available to everyone. We have all been through this. I really think as a lawyer that that recommendation is a very fine recommendation.

**Mr. Roy:** But if I might say just one further thing about the question of interest, I appreciate the fact that some companies just turn around and say, "Obviously we have got to pay more money." But then you get some insurance companies who fight tooth and nail, who don't bargain in good faith. We have all had that type of experience with some insurance companies—I can name one in particular and I suppose everyone here who has practised in that field knows which one I am referring to because they are infamous for this—they will fight you tooth and nail; or will make ridiculous offers; or will bring in some statement to the effect that the neighbour said your client has been running around the block every morning when she was supposed to be in a wheelchair—something like that.

**Hon. Mr. Clement:** That could spoil our good cases, you know.

**Mr. Roy:** Pardon me?

**Hon. Mr. Clement:** That sort of thing can spoil a lot of good cases.

**Mr. Roy:** Yes. In any event they will not bargain with you in good faith, and you have to wait two years, three years, to get to trial,

and you don't get interest. I don't think that is fair. I really don't. And I think interest would compel some of these people to bargain in good faith.

**Hon. Mr. Clement:** I think that is a good point. I would just say this in conclusion with reference to this matter, Mr. Chairman, that the ministry has not been unmindful of some practices that it certainly does not endorse—it deplors them. That was the rationale behind the construction and creation of the committee to look into some of these areas that we have been discussing this afternoon.

**Mr. Chairman:** Mr. Lawlor, did you have any pertinent points?

**Mr. Lawlor:** I think I'll delay. Financial institutions according to this chart span quite an area of evil and I think I'll delay my remarks until we get to the practices in the real estate profession.

The basic thrust of those remarks, nevertheless, I'll mention now—because trust and loan does fall here. Mr. Rowntree brought in a very nefarious Act on the real estate profession—maybe it wasn't his Act—and subsequently introduced the loan corporations into the real estate field. This gave an added impetus under that Act to the role of the trust company vis-à-vis that particular area in the economy. This is working out to be detrimental to an awful lot of people in the province—as it was predicted it would. But since the emphasis is not so much here but somewhere in between the fact of the trust company being extant and there, and its impact upon the real estate profession, I think I'll wait for the real estate professions.

I would like to turn under “institutions” to the only other one registered under this particular vote; that is credit unions. Credit unions, before my time on the select committee on corporations, were thoroughly revised and updated, and a new Act passed, isn't that correct? Haven't they been renovated?

**Hon. Mr. Clement:** No, it was co-ops.

**Mr. Lawlor:** Just co-ops?

**Hon. Mr. Clement:** Yes. The Co-ops Act was introduced last fall with the avowed intention of letting it die on the order paper to be reintroduced this spring. We will have it very shortly for introduction in the House. We made copies available to all the co-ops which have studied the legislation and made submissions.

**Mr. Lawlor:** To your knowledge, Mr. Minister, is it the intention of that committee to study credit unions? I thought they had submitted a report. Have they not submitted a report on credit unions?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** That's what I thought. No legislation yet though?

**Hon. Mr. Clement:** No.

**Mr. Lawlor:** What's the trouble?

**Hon. Mr. Clement:** I just haven't got to it.

**Mr. Lawlor:** You find your tasks too onerous for you?

**Hon. Mr. Clement:** Not really. I find I spend a lot of time at estimates—other than that I have a lot of spare time.

**Mr. Chairman:** Are there further questions on item 3?

**Mr. Lawlor:** Just a little bit on credit unions, if we may. I'll just spend five minutes while we are waiting for the minister to release himself from bondage and get the legislation before us. What do you think that select committee does? It works like Trojans to produce this stuff—all you have to do is turn it over to your staff and embody it in legislation.

**Hon. Mr. Clement:** No, there is a little more to it than that. When we get the report of a select committee on an undertaking such as a credit union not only do we study the report and recommendations, but we also make sure that on any legislation we are going to enact we have an opportunity to discuss it with, in this instance, the credit unions themselves so that they can criticize some of the recommendations. Very often things that the committees recommend are not necessarily acceptable to the industry or to the ministry. I'll use an example with co-ops.

The select committee on co-ops recommended that all co-ops, period, must mandatorily have an audited statement done every year. But in the legislation I introduced last November or December dealing with co-ops, with as I say, the avowed intention of letting it die on the order paper, we varied from that, saying that co-ops with fewer than 15 members, with the unanimous consent in writing of all the members could waive that requirement. This, I think, is pretty obvious.

You can have co-ops with three or four people in them, maybe just purchasing one



product, a fertilizer. We have also built in that legislation protection that if any one of those people wanted to revoke that consent, he could, and there was provision there then for an audit. I just use that example to indicate that this was drawn to our attention. I am not even sure of the source of that information, whether it came from within the ministry or from some of the smaller co-ops themselves. But this is the sort of thing showing some dialogue is of value between the people who are working in this type of corporation.

**Mr. Lawlor:** I agree with that. We had severe misgivings on that committee about the smaller unit co-ops having been put to the expense. I am surprised that we made the recommendation.

I would like to know briefly what the entity known as a credit union is doing in Ontario? In other words, are they flourishing? Are their numbers increasing? I am not so much concerned on this question as to the amount of their funds as I suspect they are increasing, but is the number of units increasing or declining?

**Hon. Mr. Clement:** Well, Mr. Jaffray, the director of credit unions from the ministry is here, and I would ask him to come forward and tell you that the credit union business in this province is big business. I think last year the credit unions had about \$1,200 million on deposit. Mr. Jaffray can give us facts and figures as to the growth.

**Mr. W. M. Jaffray (Director, Credit Unions):** The credit unions are dwindling in numbers, but those that remain are growing in size. The movement as a whole has enjoyed a steady growth of around 15 per cent per year over the last five years, and last year its net growth was 24 per cent.

As of Dec. 31, the total assets of credit unions were \$1,334 million and about 1,177,000 people were members of credit unions. I would say that the trend is to professional management in credit unions and to consolidation.

With respect to your interest in the status of the Act, I would say that certain policy decisions have been made as we go along that really give implementation to recommendations in the select committee's report. In other words, wherever our legislation was broad enough in scope to broaden what had been the practice to date, then such has been done by ministerial decision.

A case in point is community credit unions. At one time we put perhaps too narrow an

interpretation on the Act and said that you couldn't have a credit union in a place the size of Toronto, for example. After the select committee report, the minister of the day looked at that, as one example, and said he couldn't see any reason why you couldn't have a credit union serving people in Toronto. As a result, certain financial criteria were set down that the credit unions would have to meet in order to qualify as a community group in a metropolitan area; and if they met those qualifications, they could convert from an occupational to a residential type credit union.

**Mr. Lawlor:** You talked about consolidation of credit unions. There is a procedure with respect to mergers, amalgamations and what not?

**Mr. Jaffray:** Yes.

**Mr. Lawlor:** Do they go to you first and then it goes to the companies branch?

**Mr. Jaffray:** No, they come to us.

**Mr. Lawlor:** Solely.

**Mr. Jaffray:** Well, if it was amalgamation, it would go to the companies branch and to the minister.

**Mr. Lawlor:** I see.

**Mr. Jaffray:** If it was a purchase and sale, it would come only to me; and one group would be phased out and the other group would simply be expanded without involving a change of name or anything of that nature. This is happening because of regional government. As the regions grow, the stronger groups naturally want to expand their area of operations, while some of the weaker ones are just hanging on and would have liquidated earlier except that there is the problem of collecting the loans and making a rapid payout. Now they can do it with the purchase and sale route.

**Mr. Lawlor:** I see. In addition to the consolidations you say that professional personnel have taken over; do you mean in a full-time capacity to run a large unit?

**Mr. Jaffray:** Right. Yes.

**Mr. E. Sargent (Grey-Bruce):** May I ask a question?

**Mr. Chairman:** Well, Mr. Bounsall wanted to ask a question.

**Mr. E. J. Bounsall (Windsor-West):** Well, my question was in the same area; it may



well all be covered by consolidations. My question basically was asked by Mr. Lawlor. He was told that credit unions can consolidate, one can buy the other out; but can they get together voluntarily and say, "Look, we are going to join," and the Green and White Credit Unions become the Green-White Credit Union? What is involved there?

**Mr. Jaffray:** With certain limitations. A group with a community bond of association can buy out any other credit union within that area. Section 8 of the Act still requires the credit unions to have a common bond of membership, so that we would not agree to a parish group, say, being bought out by a steelworkers' group, because we would say there is no community of interest there. It is perhaps a technical distinction, but it is one that we have to live with until we get new legislation.

**Mr. Bounsall:** Is the decrease in numbers of credit unions largely due to consolidations and one buying out another? Or have there been any failures in the classical sense?

**Mr. Jaffray:** Well, there haven't been any failures in the sense that people have lost money. There have been failures in the sense that membership interest has evaporated, or that leadership has not been forthcoming from within the group. They have had to be wound up for those reasons, but not with any monetary loss to anyone.

**Mr. Chairman:** Mr. Sargent.

**Mr. Sargent:** Mr. Chairman, this is a wide subject, but I would like to ask the gentleman if the investment portfolios of the different unions are screened. What restrictions do you enforce?

**Mr. Jaffray:** When we conduct an examination, yes. They have to comply with the statutory limitations, and they have the same investing powers as joint stock insurance companies. And as long as they are—

**Mr. Sargent:** Well, they couldn't pull a Jimmy Hoffa and lend money for questionable mortgages and things like that, could they?

**Mr. Jaffray:** Well, of course, any credit union could pull a Jimmy Hoffa, as you put it, but they would be disciplined when an examination disclosed that.

**Mr. Sargent:** What reason would you have for an examination?

**Mr. Jaffray:** Well, we conduct routine examinations of credit unions.

**Mr. Sargent:** Spotchecks?

**Mr. Jaffray:** No, they are routine. We are doing it week in, week out.

**Mr. Sargent:** Of their investments?

**Mr. Jaffray:** Well, their whole operation.

**Mr. Sargent:** I see. If there was a kind of shaggy mortgage or investment, would you bring it to the attention of the minister? Or whoever polices them?

**Mr. Jaffray:** We do. I have a staff of 17 examiners and eight regional officers, and we examine every credit union every two years.

**Mr. Sargent:** How many people are involved in credit unions?

**Mr. Jaffray:** About 1,177,000.

**Mr. Sargent:** People.

**Mr. Jaffray:** Members, persons.

**Mr. Chairman:** Any further questions on item 3?

**Mr. Lawlor:** Yes, one further question about their debt losses. How many bad debts do they have? What ratio of bad debts to assets? Do you have any idea?

**Mr. Jaffray:** No, I couldn't give you a reliable figure on that, but on average I would think their losses—this is an actual figure, but it is about five or six years old—would be about one-fifth of one per cent of the loans made.

**Mr. Sargent:** What percentage of their portfolios would be in blue-chip stocks or government bonds?

**Mr. Jaffray:** The great bulk of credit union depositors' money is out in loans to their members.

**Mr. Sargent:** To their members?

**Mr. Jaffray:** Yes.

**Mr. Sargent:** What percentage would that be? Fifty per cent.

**Mr. Jaffray:** Oh, I would say closer to 80 per cent of their money would be back out in loans to members.

**Mr. Sargent:** What rate of interest do they charge?

**Mr. Jaffray:** They're limited to one per cent per month on the reducing balance, which is a true interest rate of 12 per cent

per annum. They can't charge more than that. They can charge anything under it that they wish.

**Mr. Sargent:** Have you ever had occasion to call a union into line, to say, "Your investments are bad"?

**Mr. Jaffray:** Oh, yes.

**Mr. Sargent:** Would you like to give us an example?

**Mr. Jaffray:** We have 1,373 of these and various examples cross my desk. I can't bring one to mind specifically. I can say that we get after them where there's really nothing but a trend developing that we don't like. For example, their liquidity, which may have been running at an acceptable level for years, suddenly changes. We'll want to know why that changes, because it's a key ratio, that sort of thing.

**Mr. Chairman:** Are there further questions on item 3? Does item 3 carry?

Item 3 agreed to.

**Mr. Chairman:** Vote 1302, item 4, Motor Vehicle Accident Claims Fund. Mr. Havrot.

**Mr. E. M. Havrot (Timiskaming):** Mr. Minister, is this \$1,414,700 for administering the motor vehicle tax in the claims fund? I notice you have below here \$8 million in payments from the Motor Vehicle Accident Claims Fund.

**Hon. Mr. Clement:** I am having the director, Mr. Gilchrist, come up right now. You'll see when the director speaks, Mr. Havrot, the breakdown on how the \$1.4 million is computed. The \$8 million is money, just as it says there, from the fund on the payment each year of the fees by the persons who avail themselves of the certification by the fund, plus interest generated by the fund itself.

**Mr. Chairman:** Mr. Gilchrist, are you going to provide some further information?

**Mr. H. N. Gilchrist (Director, Motor Vehicle Accident Claims Fund):** The question, as I understand it, was the \$8 million payment from the Motor Vehicle Accident Claims Fund?

**Mr. Havrot:** No, the \$1,414,700; this is for administrative costs, is it?

**Mr. Gilchrist:** That's right, sir.

**Mr. Havrot:** What are the services which cost \$860,000?

**Mr. Gilchrist:** That is the cost of investigation, legal expenses in the handling of the claims, sir.

**Mr. Havrot:** Over and above the regular salaries and wages?

**Mr. Gilchrist:** That's right, sir.

**Hon. Mr. Clement:** The fund, Mr. Havrot, has to defend and represent people in a number of actions and it will retain adjusters in many instances in that area, negotiate settlements, and if it gets beyond that point then counsel must be retained on behalf of the uninsured driver and the fund. That \$800-odd thousand involves those fees paid mainly to adjusters and counsel. There may be certain other smaller professional groups who come under that.

**Mr. Gilchrist:** There are the appraisers, and the adjusters, and the doctors and—

**Hon. Mr. Clement:** Appraisers, yes.

**Mr. Gilchrist:**—engineers and accountants.

**Mr. Havrot:** Are there any surplus reserves in this unsatisfied judgements fund?

**Mr. Gilchrist:** There are, sir. The surplus at the end of March amounted to \$27,478,000.

**Mr. F. Young:** What annual income comes from the fund?

**Mr. Gilchrist:** Pardon, sir?

**Mr. F. Young:** What was the income last year?

**Mr. Gilchrist:** The income last year was \$10,259,000-odd and that was derived, as you know, from the uninsured drivers' fees, the repayments and the interest on the surplus. The payments out of the fund amounted to \$9,090,000.

**Mr. F. Young:** Pretty close. Mr. Chairman, there are a couple of things I want to discuss. First of all, I think it's obvious that some of us don't agree with this method of doing business in insuring vehicles. Hansard is plastered with that point of view and I'm not going to enter into it in any great detail today, but one thing I do want to say is that I've had quite a lot of dealing with the fund on behalf of constituents who have come to me with difficulties.

I want to put on the record that I have had very courteous treatment from the staff



administering this fund and they have gone out of their way, it seemed to me, to clear up difficulties and to do the job that the department has hired them to do. I just want to say that, because in most cases my experience has been, as we tried to get things straightened out, that the problem wasn't with the department itself so much as with the lawyers representing the clients. Invariably they would tell their clients, "The government is procrastinating. We can't get anywhere with them," but generally we found the problem was that the lawyers themselves hadn't taken the proper action and the stuff was piling up on their desks and since this wasn't too important to them, or too lucrative, they were neglecting it in favour of something else which perhaps was a little more important to them.

When we got down to brass tacks on the thing and forced some action from their end, the action came through from this end very efficiently and very effectively. I just want to say, as one who has done quite a bit of work in this field, that I feel that your staff has been very efficient here.

Of course, as I said at the beginning, that doesn't mean that I agree with this method of handling—

**Mr. Sargent:** However.

**Mr. F. Young:** —protection for motor cars, because I think that in this province we've got to come eventually to the whole concept of public insurance for this industry, based on the effectiveness of some experience which we've had over the years in other provinces, where fundamentally it's been proven that for every dollar that has been paid it takes only about 15 to 17 cents of the premium dollar to administer the plan, whereas in the private insurance in this province, and other places, it takes 35 cents plus to administer it. Which means that no matter how you juggle the figures, and how much you may say: "Well, this insurance doesn't compare with that because this has this feature and that has that feature," the fact is that, dollar for dollar, the public insurance has proven itself.

I've made a lot of speeches in the House on this and brought out statistics and so forth. As I say, I'm not going to repeat that here. I did want to just simply say that within the terms of reference—with which I don't agree—I think your staff is doing a very competent job.

**Mr. Chairman:** Are there any other accolades?

**Hon. Mr. Clement:** I just want to thank Mr. Young for those comments and I want to put it on the record here that in the last eight months I've had two inquiries come to me and never one complaint. I had two inquiries, just matters of information which I sent down to the fund and they have been answered and that's the end of it. If the ministry operated on that basis in every facet, I'll tell you, my job would be a much lighter one than it is right now. So I'd like to thank you for your comments, Mr. Young, on behalf of the people who administer the fund.

**Mr. Chairman:** Any other questions?

Does item 4 carry?

Item 4 agreed to.

**Mr. Chairman:** Item 5, companies.

**Hon. Mr. Clement:** Mr. Salter, I wonder if you and Mr. Gough and Mr. Doane might come forward here and be of some assistance to us.

**Mr. Sargent:** Mr. Minister, could you talk about finance companies here, under this vote?

**Hon. Mr. Clement:** Actually, it should come in under business practices, Mr. Sargent, unless it's a question of chartering or incorporating finance companies.

**Mr. Havrot:** Mr. Chairman—

**Hon. Mr. Clement:** Excuse me, Mr. Havrot. I have the director, Mr. Charles Salter, and three of his staff here to assist. I'm sure you'll find the experience of these people in the sphere in which they operate very interesting.

**Mr. Chairman:** Mr. Havrot.

**Mr. Havrot:** Yes, Mr. Chairman. I note that there is a 23.58 per cent increase in this year's estimates over last year's estimates. Is there any particular reason for this large increase?

**Hon. Mr. Clement:** Yes. If you would like to make a note of this; there aren't that many figures involved.

The total increase is \$265,200, involving employee benefits of \$12,300; services, \$274,100. The increase in services covers six legal officers and six secretarial staff which are to be supplied by the Attorney General's ministry. They are in the new programme. They total \$156,200. There are also computer charges of \$117,900 which were formerly



provided by the Ministry of Revenue. That comes to \$117,900.

The reason for that is that formerly the Ministry of Revenue and the companies branch worked very closely together and used certain computer information. The computer information which the companies branch utilized was provided by the Ministry of Revenue and no charge was levied against it. The Ministry of Revenue is now obliged, in effect, to charge us for it. Therefore, while our estimates will go up by \$117,900, the Ministry of Revenue's will descend for that corresponding amount.

The net difference is zilch as far as the net cost is concerned but it gives a more accurate reflection of the cost that you run into. It is very much like the previous matter dealing with the drivers and the Motor Vehicles Accident Claims Fund.

The way governments are geared you don't show it. This is going to change the cost for the facility which the ministry operates; the rental factor, you might call it, and the utilities and this sort of thing.

**Mr. Havrot:** In other words, it is an adjustment in the charges which you hadn't included in last year's figures?

**Hon. Mr. Clement:** That's basically it.

**Mr. Chairman:** Are there further questions on item 5? Mr. Lawlor.

**Mr. Lawlor:** Mr. Chairman, on corporations, if I may say so, certain members of this staff and I and others involved in corporation law practically live together these days. We see a great deal of each other.

As the minister has pending before the House revisions to the Business Corporations Act and we are beginning the phase to revise the trust and loan corporations, I don't see any particular point in this. I suppose we could discuss derivative actions and various forms of corporate insiders and what not, but with the bill pending and things like the comments of the Ontario commercial law subsection of the bar association, for which we, Mr. Renwick and I, have spent time with a delegation of lawyers, outside the work of this House, etc., honing the proposals, inch by inch, over long hours, etc., I feel there's very little point in launching it.

I think I may turn merely—I shouldn't say merely—to the area of commendation like my friend Mr. Young. I find that the work that Mr. Salter and his cohorts do is courteous and highly civilized and to the point I think

they have got the thing under control; there were years when all their notices were enormously behind, much to my personal gratification!

**Hon. Mr. Clement:** And mine, too!

**Mr. Lawlor:** Now they have become ogres to the profession. They'll cancel a charter without even blinking an eye.

Of course, I found, too, in the past that when I defied them to cancel the charter, because I wanted the thing cancelled at their end so I wouldn't have to pay any fees to get it cancelled at mine, the thing was really defunct. I put money out of my own pocket to find it had disappeared into some limbo of its own.

**Hon. Mr. Clement:** Did they accommodate you?

**Mr. Lawlor:** No, it's still not cancelled, as a matter of fact.

**Hon. Mr. Clement:** Oh!

**Mr. Lawlor:** Not that one. They cancelled the other ones out of hand.

**Hon. Mr. Clement:** I see.

**Mr. Lawlor:** I have never had it come to private bills committee under that head. What has taken place is a considerable tightening up in that area which, of course, is good from a point of view of efficiency and getting a lot of fat out of the system. Removing all kinds of really defunct files out of their way, I'm sure is going on apace.

Perhaps Mr. Salter would care to comment on how they are getting along in that administrative chore.

**Mr. Chairman:** Mr. Salter.

**Mr. C. R. B. Salter** (Executive Director, Companies Division): Thank you, Mr. Chairman. In accepting Mr. Lawlor's kind comments I do so only if Mr. Young will share them since in the year I've had the companies division, I've simply been continuing the administrative style that he set up. Speaking of the Business Corporations Act in particular, which came in about 2½ years ago, we were certainly feeling our way into the administration of the new registration type statute, as opposed to the letters patent system under which this province had operated for 10 years. We have, in those 2½ years—together with the profession which is learning the ins and outs of the statute—got the system down now to a point where, I think, it is easily

and widely understood. It works and, frankly, we have the objective of continuing in the next few years to administer this statute with the same staff that we now have.

**Mr. Lawlor:** The miracle of miracles, if I may interject, is that the wage structure is lower than previously.

**Mr. Salter:** We were able to reduce staff by two from the previous year.

**Mr. Lawlor:** Yes. In 1972-1973 it went from \$898,000 down to \$882,000 this year. It is the first estimate, I think, in the history of this government in which that has actually happened, Mr. Salter. Again, you may take accolades.

There is just one other thing in the administration of the relatively new Business Corporation Act: Are you getting many applications for one-man corporations?

**Mr. Salter:** Mr. Doane could, perhaps, best speak to that.

Jay, have you any recollection of the approximate incidence of where there is a single incorporator?

**Mr. J. J. Doane** (Deputy Director, Operations; Companies Division): We have no statistics on the incidence of one-man corporations but a general observation is that there is a considerable number.

**Mr. Chairman:** Are there any further questions?

**Mr. Lawlor:** Is it possible to swing what used to be called a private corporation—a three-man corporation—into a one-man corporation under your Act now?

**Mr. Doane:** Yes, it is. It's done simply by reducing the board of directors to one.

**Mr. Lawlor:** I see; by way of resolution?

**Mr. Doane:** Special bylaw.

**Mr. Lawlor:** Special bylaw? Do you get many of those?

**Mr. Doane:** Quite a number.

**Mr. Chairman:** Are there any further questions? Is item 5 carried? Carried.

Item 5 agreed to.

**Mr. Chairman:** I wonder if we might skip to item 7 and leave item 6 for the moment?

**Mr. Sargent:** I would like to talk on item 6 if I could, Mr. Chairman.

**Mr. Chairman:** We are waiting for some support staff on item 6 to arrive. We could take 7 and then come back to 6.

**Hon. Mr. Clement:** There is quite a number of people coming in sharp at 8 o'clock to deal with it. We thought, if the committee agreed, we would go to 7. It may be dealt with rather rapidly; if not when we return this evening we can pick up where we left off.

If it is dealt with rapidly, we have some comments to make. We don't want to waste time and we can get into business practices, which is item 6. Perhaps the deputy and I can answer some of your questions and if not, we will let them go over to 8 o'clock when our support staff is here.

**Mr. Chairman:** All right, item 7, commercial registration appeal tribunal.

**Mr. Havrot:** What is the definition of that, Mr. Chairman, as to what it covers?

**An hon. member:** He isn't here to answer yet.

**Hon. Mr. Clement:** Under certain statutes, for example, the Real Estate and Business Brokers Act and the Used Car Dealers Act and so on, there's provision for the hearing of complaints before this tribunal.

For example, a complaint may come to the registrar of the Real Estate and Business Brokers Act that a realtor or a broker is conducting himself in a way contrary to that Act. The registrar and his staff investigate it and if they find out that there is substance to the complaint the registrar serves a notice on the realtor or broker saying, in effect, "take notice that I think you are unworthy to conduct your business as a salesman or a broker in that you did the following." Then he sets out the circumstances.

The recipient of that notice can accept it and 15 days later that is the end of the ball game. If he doesn't accept it, and invariably they don't, he has 15 days to file, in effect, if I may use this terminology, a notice of appeal to the commercial registration appeal tribunal.

The tribunal has a full-time chairman, full-time registrar, and a full-time deputy registrar, or deputy chairman, I guess it is. Is that right?

**Mr. E. Johnston** (Financial Manager, Programme Support Division): Registrar.



**Hon. Mr. Clement:** And the deputy registrar?

**Mr. E. Johnston:** The deputy is not full-time.

**Hon. Mr. Clement:** All right. The deputy registrar is not full-time; the registrar and the chairman are. The chairman will select two realtors who are not known to the accused, if I may use that terminology, probably from areas not adjacent to where the realtor carries on his business. A date is set for a hearing and evidence is called.

It is the adversary system. Both sides are represented by counsel. The business practices division of my ministry does the legal work. My ministry does the legal work and presents the prosecution. The realtor is entitled through his counsel or himself personally to cross-examine and to lead evidence itself. Then the tribunal comes to a conclusion and the man is either found innocent or guilty of the offence and the registrar's charges are upheld, or some of them are upheld, and others are not upheld.

They can impose punishment, resulting in suspension of the licence to practice, or a suspension in certain terms, for example, a two months' suspension from conducting his business. In turn, the realtor at that point can go another avenue and go to the court of appeals if he is unhappy with the finding of the panel. The rationale behind it is that it is an informal law of merchant or mercantile panel dealing with matters of some particular interest.

As I say, possibly you've read in the paper where car dealers have been charged with turning back their odometers and realtors have been charged with failing to disclose that they were actually purchasing the property listed with them through a dummy purchaser for their own gain, and this sort of thing. So that is the purpose of the tribunal. It is a quasi-judicial tribunal. It has great power. It can preclude a man from conducting his real estate business for the rest of his life, if need be. It is handled in a pretty straightforward judicial fashion.

**Mr. Sargent:** How closely do they get into the area of politics?

**Hon. Mr. Clement:** I would say it is extremely remote from the world of politics. I'll tell you why I say that. I have jurisdiction over the securities commission, the commercial registration appeal tribunal, the racing commission, and certain other commissions that act in a quasi-judicial nature.

As a matter of practice and a matter of ethics and good business, I do not interfere or attempt to interfere in any way with the judgements of the tribunal.

**Mr. Sargent:** But would you know if politics were being used?

**Hon. Mr. Clement:** I would hope that there is no politics being used at all. If it came to my attention, I would then take some action.

**Mr. Sargent:** You had better check up then on what is happening on the odometer cases, pending now. When they gathered certain evidence from the books they seized, they found 28 large firms of car dealers in Toronto who were involved in the practice. The case was hushed up because they didn't want to get too many important names involved in the odometer scandal.

**Hon. Mr. Clement:** I am not aware of that, and I just can't accept it by any stretch of the imagination. I am not happy, I might add, with some of the decisions of the tribunal. I am not happy, because I see one facet of the ministry thwarted. But I don't think it is incumbent upon me, and as a matter of fact I think it would be most improper, if I ever suggested to the tribunal the way that it should proceed. The chairman and its staff are accountable to me. I don't even know two members of each tribunal which sat in the last eight months, because the chairman surrounds himself with two car dealers or two realtors. Invariably they are brought in from places other than the city.

**Mr. Sargent:** Why, in this particular case, have they charged one firm with fraud when the practice is widespread of turning back the odometer? Why is one firm pegged while the rest of the firms get off free?

**Hon. Mr. Clement:** That I would presume would be a matter of evidence. The tribunal does not conduct any of its own investigation. They are at arms' length from the registrar, say, the real estate registrar or the used motor vehicle registrar or the ones who initiate the complaints. You buy a car which you thought had 25,000 miles on it and you find out it had 30,000. If you complain to someone, eventually that complaint would end up in the registrar of used motor vehicles' hands. It is up to him then through his staff to initiate an investigation to see if what you say is in fact true and, secondly, to get a legal opinion from his own staff whether, if a prosecution was launched, it would be suc-



cessful. The tribunal at this time doesn't know what is going on. The first they hear of it is when the registrar's notice comes to their attention, invariably when the recipient of that notice files an application.

**Mr. Sargent:** Somewhere in your ministry there are people who look after this type of fraud?

**Hon. Mr. Clement:** Yes. I would welcome that question tonight when we get into the business practices section, because I am just not aware of it. I might say there is absolutely no communication between any of the registrars and the chairman of the tribunal, other than the ordinary correspondence exchanged as to dates of hearing that are convenient, and so on. I have got to maintain a hands-off attitude. It is the only way that it can be done. It is subject to appeal to the courts, too. With my responsibility, I wouldn't want to think that in any way I influenced the tribunal as to the outcome. In a couple of them I have been personally annoyed, because I thought there should have been a conviction, but there wasn't, and that is the way it goes.

**Mr. Chairman:** Mr. Lawlor.

**Mr. Lawlor:** I have a few questions. First of all, the vote wasn't in last year's estimates. Where was it?

**Mr. E. Johnston:** It was under commercial registration.

**Mr. Lawlor:** Under commercial registration?

**Hon. Mr. Clement:** Right.

**Mr. E. Johnston:** It got all mixed up in that one vote with the subheading, commercial affairs.

**Mr. Lawlor:** In commercial affairs?

**Mr. E. Johnston:** Yes, that's right.

**Mr. Lawlor:** So we couldn't get a comparison between one and the other, it seems. Thoughtlessly or foolishly, you are spending the money.

**Hon. Mr. Clement:** Without subtracting, adding, dividing and all those things to find out where you are, the increase to the tribunal this year over last year is \$16,600, made up of salary increases of \$6,900, employee benefits of \$3,500, and services of \$6,200. That is on a budget of about \$100,000.

**Mr. Lawlor:** What is the composition of the tribunal?

**Hon. Mr. Clement:** The tribunal consists of a chairman—

**Mr. Lawlor:** Permanent?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** If not permanent, at least full time.

**Hon. Mr. Clement:** A full-time employee.

**Mr. Lawlor:** Subject to your licence or leave?

**Hon. Mr. Clement:** No, he is not subject to my licence. He is on a five-year order-in-council appointment.

There is a registrar; there is a deputy registrar; and there are about four members of the tribunal who are not full time. In other words, they are on call.

In addition, the tribunal has the power to bring someone in to sit on the tribunal to hear a matter. Say it is pertaining to real estate. It may be that for one reason or another the people who are available here may know the accused—if I may use that expression—and decline to sit. Then the real estate boards in the various cities, Toronto and Ottawa, will, on request, make available an individual having the qualifications that the chairman thinks are requisite for that type of tribunal.

**Mr. Lawlor:** The four people who are not full time but on call—I take it that they are competent in the several areas involved?

**Hon. Mr. Clement:** I know the background on one or two. Mr. Hugh Sedgwick is a solicitor here in the city of Toronto; Mrs. H. J. Morningstar is very active.

**Mr. Lawlor:** Is he any relation to Joe Sedgwick?

**Hon. Mr. Clement:** His son.

**Mr. Lawlor:** Is he as full of gimcrackery as the old man?

**Hon. Mr. Clement:** I have only met Mr. Sedgwick on one occasion some weeks ago and the first thing I asked him was, "Are you related to Joe Sedgwick?" and he indicated he is asked that question a lot. He is not with his father's firm. He is a very charming fellow.

**Mr. Lawlor:** His father is a raconteur, as you know.

**Hon. Mr. Clement:** Oh yes.

**Mr. Lawlor:** It is marvellous to get dressed in the robing rooms with Joe Sedgwick around.

**Mr. Sargent:** When these lawyers get together they have a good time.

**Hon. Mr. Clement:** I was with a group of individuals last night of which Mr. Sargent was one and there were no other lawyers—oh there were a couple there—and we still had a good time, didn't we?

**Mr. Lawlor:** How did you manage that? Were you with Mr. Sargent?

**Mr. Sargent:** Boring as hell, I will tell you!

**Hon. Mr. Clement:** Mr. Lind, the registrar, is a solicitor. The chairman is Mr. J. C. Horwitz, QC. Mrs. Morningstar is very active in the Ontario Consumer Association.

**Mr. Lawlor:** Is she any relation to the member for Welland?

**Hon. Mr. Clement:** No. Good try!

**Mr. Lawlor:** I am just trying to find the family trees around here.

**Hon. Mr. Clement:** You come to my riding and go up to a certain rural part of it and if you shoot somebody the chances are nine out of 10 will be a Morningstar or a Willick. It is a very common name down in my area.

**Mr. Lawlor:** The remnants of a rare breed, are they?

**Hon. Mr. Clement:** Right! Mr. Evans is a businessman. I don't know the callings of Mr. Leff and Mr. Ades.

**Mr. Chairman:** Further questions?

**Mr. Lawlor:** I want it slightly more closely defined. Mortgage brokers appear before this tribunal, besides real estate and used cars? Would this be on mortgage brokers?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** What I would like to know is the number of cases, but I would like to know the cases according to breakdown. Just on the area of breakdown, I take it that the collection agencies would be subject too under this tribunal?

**Hon. Mr. Clement:** I can give you the number of cases, we have got them here.

The number of hearings held was 34, broken down into consumer protection, seven; Motor Vehicle Dealers Act, 21; Real Estate and Business Brokers Act, six. There were 12 applications by the registrars to revoke or suspend licences; and there were 22 applications by candidates for registration—that is where the registrar had refused registration, we will say as a broker or as an agent, and the applicants appealed the registrar's decision to the tribunal.

**Mr. Sargent:** Are they paid on a per diem rate?

**Hon. Mr. Clement:** Yes, the people who are not full time.

**Mr. Sargent:** How much a day?

**Hon. Mr. Clement:** They receive \$85 a day.

**Mr. Sargent:** How many people are full time?

**Hon. Mr. Clement:** Two.

**Mr. Sargent:** For 34 cases there were two full-time people? That is a bit much isn't it?

**Hon. Mr. Clement:** Some of those cases go on for a matter of many, many days. I can think of one involving a realtor in the St. Catharines area last summer or last fall that took possibly nine days. They are ready to undertake hearing one case now that may take 20 full days, four weeks.

This is one of the difficulties in using part-time people, but in the interests of economy we have to. It's very easy to have a man say: "Yes, I'm a real estate agent in Hamilton, and I'd be glad to come down and sit on a case." Then the next question is, "How long is it going to be?" It might be seven days, and he's just not prepared to make that sacrifice to be here for seven days—or wherever the hearings are conducted.

By the way, the hearings are conducted throughout the province. They're not all held here. They hold them in St. Catharines, or Hamilton, or wherever the convenience of the witnesses would dictate.

**Mr. Bounsall:** What are they paid for their part-time service?

**Hon. Mr. Clement:** Eighty-five dollars a day.

**Mr. Bounsall:** Eighty-five dollars a day?

**Hon. Mr. Clement:** For each day they sit, plus expenses.

**Mr. Bounsall:** When you say it takes 20 days, you mean 20 full days?

**Hon. Mr. Clement:** Yes.

**Mr. Bounsall:** Because one of them has to leave for a couple of hours and come back, it's—

**Hon. Mr. Clement:** No, no. It would be 20 full days.

**Mr. Chairman:** Other questions? Mr. Lawlor.

**Mr. Lawlor:** Continuing on that chain. Of the 22 refused by various registrars how many were accepted by the tribunal?

**Hon. Mr. Clement:** I can't tell you, but I'll undertake to get that for you. I don't have that available.

**Mr. Lawlor:** I'm surprised at the very small number of real estate people appearing—six only.

**Hon. Mr. Clement:** They're increasing. This is last year. I was speaking to the chairman, two weeks ago I think, and he indicated that the case load is increasing, particularly as people are now more aware of their rights, and more consumer conscious. Things are coming to the attention of the various registrars under the Acts which we administer, and this in turn results in charges, if I may use that expression, being laid.

**Mr. Lawlor:** It must be that numerous people are under a cloud one way or another. Their licence is being called into question or not renewed and so on, by the registrar, and for some reason or other they don't appeal. It has been traditionally somewhat of a bad-boy profession. There's been an awful lot, and you know that through practising. Sometimes the levels of skills are passed by. On the other hand the misrepresentations are fairly commonplace. Therefore, their reputations and their ability to practise would be severely under question.

**Hon. Mr. Clement:** Yes, not all of them appeal.

**Mr. Lawlor:** No, not very many appeal. Hardly any.

**Hon. Mr. Clement:** Some of them; the evidence is so overwhelming when they see it in print and they consult counsel they recognize that there's just no point in "washing my linen in public" and they steal off into the night.

**Mr. Lawlor:** That was the next question—are the hearings all held in public? Are some held in camera, or what's the score?

**Hon. Mr. Clement:** They're all held in public as far as I am aware. I'm not aware of any being held in camera. As a matter of fact, we would encourage it to be held in public, Mr. Lawlor, for the very deterrent effect it would have on others who might be inclined to follow those practices that we do not condone.

**Mr. Lawlor:** And then, finally, are any of the decisions—perhaps the more pivotal ones—written down and are they available by way of case law or report?

**Hon. Mr. Clement:** Yes, those decisions are invariably in writing. I might point out, as I mentioned to Mr. Sargent, that I'm not always necessarily happy with the decisions. We in fact appealed one dealt with by the Ontario Court of Appeal last autumn and the chairman was reversed.

**Mr. Lawlor:** I see. I wonder if I could ask you—as they publish them, I would like to receive them. I haven't seen these decisions at all. It would be very interesting to peruse them.

**Hon. Mr. Clement:** I am just checking to see if there is some kind of subscription service or something to it, Mr. Lawlor.

Yes, Mr. Cooper has just pointed out that it's mandatory that they prepare and periodically publish a summary of the decisions and the reasons for same. That's under section 7, subsection (10) of the Act. Now, what method of distribution they use, I am just not acquainted with.

**Mr. Lawlor:** Oh, I imagine it could be done.

**Mr. J. K. Young (Deputy Minister):** You know, Mr. Lawlor, that we have money in the estimates for producing these and I will undertake to find out how they are distributed and perhaps we could make them more public.

**Mr. Lawlor:** Yes. You have no idea whether a copy goes to the library or not?

**Mr. J. K. Young:** I would think it does, but I am not certain, Mr. Lawlor. I'll undertake to inform you.

**Mr. Lawlor:** I think that's it.

**Mr. Chairman:** Shall item—



**Mr. Lawlor:** Just one other question if the minister would care—just as a case in point. I am kind of interested; you say you are unhappy about certain decisions—could you give me an indication or an instance?

**Hon. Mr. Clement:** Well, in the one which was dealt with by the Court of Appeal last fall—

**Mr. Lawlor:** Do you remember the name of the case?

**Hon. Mr. Clement:** Yes, it was the registrar versus a motor car company—what was the name of that?

**Mr. Lawlor:** A recorded decision?

**Hon. Mr. Clement:** Yes. Do you know, Mr. Simone, the name of that case in Dunnville? It was the one in Dunnville.

**Mr. V. J. Simone** (Collection Agencies, Mortgage Brokers, Bailiffs): Rowe Motors.

**Hon. Mr. Clement:** And the judgement on that I think was given by Chief Justice Gale.

**Mr. Lawlor:** I could look that up, then. On the unrecorded decisions, would you care to give an indication?

**Hon. Mr. Clement:** I would not like to make any comment at all on that. I would make it to you privately, but I wouldn't like it to be enshrined forever on the records of this Legislature.

**Mr. Lawlor:** You think you might influence me.

**Hon. Mr. Clement:** I have had no discussions with the registrar or the chairman about this mainly for the very reasons I have outlined, but sometimes we see a practice prevailing. Perhaps I identify too much with the enforcement side of it, and the penalties aren't necessarily in line with what I think are suitable. Of course, I have available to me all the rights of appeal. I can appeal the sentence if I am unhappy. Again, you get into the question of cost and the validity of the appeal. To me, it wouldn't be good business to appeal something where a one month's suspension might be doubled and increased to two if it is going to cost us \$1,500 in time; so I go to bed with those.

**Mr. Lawlor:** I think it's wise.

**Mr. Chairman:** Shall item 7 carry?

**Mr. F. Young:** One further question: the remuneration of the chairman and the registrar.

**Hon. Mr. Clement:** Mr. J. C. Horwitz, full time, gets \$33,500, and Mr. W. H. Lind, the registrar—what is it there, Mr. Johnston?

**Mr. E. Johnston:** I am not so sure, Mr. Minister.

**Mr. Sargent:** Almost as much as a member of Parliament.

**Hon. Mr. Clement:** I think it is \$18,000 for the registrar. It may even be \$19,000.

Interjection by an hon. member.

**Mr. Chairman:** Item 6, did you wish—

**Mr. Lawlor:** I'm sorry. The wages and salaries are \$70,000—\$35,000 for one and \$18,000 for the other.

**Mr. Sargent:** Mr. Chairman and Mr. Minister, I am getting to be an old man now and all my life I have been dealing with Shylocks and bankers, finance companies and—

**Mr. Lawlor:** I feel sorry for Shylock.

**Mr. Sargent:** —I think it's time that somebody went to bat for the consumers in Ontario and gave them some kind of protection. Because, Mr. Minister, there are millions of people in this province who are in debt from the day they are born until the day they die because of the excessive rates of usury—is that the word?—

**Mr. Lawlor:** Usury.

**Mr. F. Young:** It sure is.

**Mr. Sargent:** —in Ontario. In fact it's almost criminal. I wish to hell the press was here to pick up what I'm saying!

**Mr. Lawlor:** It's the next vote.

**Mr. Chairman:** We are dealing with item 7. I'm sorry, item 6. This is business practices.

**Mr. Lawlor:** No, we are not on business practices. Oh, I'm sorry.

**Mr. Sargent:** You and the minister have had your chat—now let's get down to business.

**Mr. Lawlor:** You are making fun of me. Okay.

**Mr. Sargent:** My learned colleague here on the right—Mr. F. Young—tells me that usury was punishable by death in the olden days. I would suggest it is very strong in Ontario today. It is rampant, in fact.

You can take any area of it, Mr. Minister. You can take the conditional sales contract. There is no risk there, very little risk there for the person loaning the money. Yet what are they getting—18, 22 per cent on that type of a deal? We have it on personal finance loans—they are charging 18 to 20 per cent for a co-signed good paper. I really mean it, John, that somebody has to start doing something about it.

I mean, to be in business today, if you can't get bank credit you have to go out and you pay through the nose. You pay anything to 24 per cent plus a bonus. I haven't organized my thoughts on this. I should have made some notes on it—I didn't know it was coming up. But the fact is that it should be illegal to charge a bonus for loans. Make it law that they can't charge a bonus. Set a ceiling on what a personal loan rate should be, and what a conditional sales contract rate should be.

The finance companies are the wealthiest outfits—they are just spreading like mushrooms all over here. They are taking over our economy and our people are in debt all their lives. They never get out of debt. They're up to here.

**Hon. Mr. Clement:** Mr. Sargent, I personally feel, subject to the observation of others who have seen the trend over the last 15 to 20 years, that the situation has improved itself substantially within the last five to 10 years compared to what existed before that. Back in the early and mid-50s my experience was that somebody who needed financing for his home—that is secondary financing—invariably had to pay a bonus. He didn't realize that he was paying on a second mortgage of \$3,000. He paid on it for five years and much to his chagrin he found the great balloon payment at the end where he owed \$2,600, even though he had been paying \$25 a month—this sort of thing. It was this type of practice that actually led to the birth of the Mortgage Brokers Act, because—I don't know when it came into effect, I am going by memory—

**Mr. Sargent:** Are balloons out now?

**Hon. Mr. Clement:** Pardon?

**Mr. Sargent:** Are balloons out now?

**Hon. Mr. Clement:** No, but disclosure is in. People were acting as mortgage brokers but really were nothing more than high-binders really acting as mortgage brokers, buying second mortgages, or loaning the money for second mortgages—to use figures, \$3,000 at

22 per cent, repayable \$25 a month for maybe three years, but the bonus that they would charge for arranging the mortgage might be \$700 or \$800. Legal fees came off that and the man would have say \$2,000 advanced, but now he owed \$3,000. He would pay on it for three years, and if you take those figures you will find that that \$3,000 mortgage in three years would be reduced by not much more than \$125.

So this led to the birth of the Mortgage Brokers Act under which these people have to register, the forms are prescribed, any bonus has to be disclosed and legal fees have to be disclosed. In other words, it is an exercise in making the—

**Mr. Sargent:** It doesn't stop anything though.

**Hon. Mr. Clement:** No, it doesn't stop the practice completely. Interest, of course, is a matter of federal jurisdiction under the Interest Act. I have been involved in an argument for as long as I can remember—and this will not be a unique one to the other lawyers here—as to how you compute interest. At one per cent a month simple interest, the true rate is 12 per cent a year; a lot of people don't understand that. And 1½ per cent per month—which, of course, is 18 per cent—they think, "That's cheap. My cousin bought a house and has to pay nine per cent." Of course, they are mixing apples and oranges.

**Mr. Sargent:** Do you have the power to regulate?

**Hon. Mr. Clement:** Interest? Only under the Loan and Trust Corporations Act, I believe. Do we have power to regulate interests, Mr. Young?

Yes, it seems to be disclosure all the way.

**Mr. Sargent:** But you do have the power to regulate?

**Hon. Mr. Clement:** I don't have federal power.

**Mr. Roy:** But can you regulate interest at any level?

**Hon. Mr. Clement:** No, we can regulate its disclosure.

**Mr. Roy:** Well, that is really not regulating it if you are forcing its disclosure but not setting it.

**Hon. Mr. Clement:** I can't set the interest rates, no. Another thing, with respect, that I submit has improved the situation is the

fact that since about 1966 or 1967 chartered banks have got into more consumer lending programmes because the Bank Act, which again is federal, was amended to allow them to enter this field.

We heard some evidence this afternoon as to the amount of money involving credit unions, and I was just astounded when I heard Mr. Jaffray say that the figure is \$2,330 million. The last figure I had was for last October when it was about \$2,200 million. In other words, the total assets have gone up more than \$1 million in the last five or six months. I was quite amazed when I heard him say that. Also, people are becoming more consumer conscious. All these factors are working in favour of the consumer.

I say the position has improved tremendously since 1955 or 1956, say, because fortunes were made then. I have seen a \$135,000 third mortgage discounted immediately on a hotel for \$100,000, and paid off four months later, and somebody picked up \$35,000-plus in interest. We have all had these experiences. This heaped the burden on the consumer. Because of the heavy debt, he was unable to acquire much of the world's assets because he was paying for a depreciating asset in the form of a car, a stereo or something. He just never got ahead.

There has been an age-old battle as to how you compute interest, at least down in my neck of the woods. The popular form, on a house, is that you take the principal and compute the interest on it twice a year, add the interest, subtract the payments and form a new principal.

**Mr. Sargent:** Pardon the interruption. Regarding disclosure, does your department put that into effect?

**Hon. Mr. Clement:** Yes.

**Mr. Sargent:** All right. But you didn't go far enough. What's the word?

**Hon. Mr. Clement:** Caveat emptor—buyer beware.

**Mr. Sargent:** That is still in effect right now, isn't it?

**Hon. Mr. Clement:** Yes. If the interest is shown as a monthly rate, they have to show it on a per annum rate also so that the average person can have some basis of comparison.

**Mr. Bounsall:** You do require that both monthly and yearly rates be shown?

**Hon. Mr. Clement:** Yes, we require that they both be shown.

**Mr. Bounsall:** On all transactions?

**Hon. Mr. Clement:** Yes, within our sphere of influence.

**Mr. Sargent:** When you get the cheque, you sign the deal—

**Hon. Mr. Clement:** Yes.

**Mr. Sargent:** The psychology of this thing is that you want the cheque so bad, you say, "Oh, look, I'll sign the form."

**Hon. Mr. Clement:** We have got to be careful what we are talking about. With a mortgage arrangement, the financial arrangement is prepared by the broker and submitted to you; if you accept it, you sign it.

**Mr. Sargent:** That is the last thing you do before you get the cheque!

**Hon. Mr. Clement:** But you don't get the cheque at that point, because a good number of things have to happen between that point and the advancing of the money. The title has to be searched and so on—

**Mr. Sargent:** No. Correction. That is the last thing you do before you get your cheque.

**Hon. Mr. Clement:** Well, down in my neck of the woods the broker will agree to arrange a mortgage for you, then the terms as set out and you accept or reject that. If you accept it, then you walk away with a form, and in due course the mortgage is drawn by a solicitor. The title is then searched and you go in and sign the mortgage, which should be explained to you by the solicitor at that time.

As a lawyer, I have had the experience of having people come in, and the first thing I know is that the broker has drawn the mortgage, the people come in and I have never seen them before. They say, "We want to use Clement." And I've talked them out of it.

I've said, "I won't witness that mortgage, I won't register that mortgage because I know what is going to happen; in two or three years' time you people are going to be so up to your neck in debt you will have to look around for somebody to clutch by the throat, you are going to blame me for



your getting into this transaction. If you want to take it to another lawyer who will do the subsearch and register the mortgage, you go right ahead." And, of course, that is the last of the work I got from the finance company.

**Mr. Sargent:** Why isn't there some safeguard right there? No one says a broker can't do that.

**Hon. Mr. Clement:** Well, you and I can contract to a great number of things that may not be acceptable and as long as they aren't illegal, that's it. My experience with a good number of consumers isn't what is the interest rate; it is, how much is it a month?

It being 6 o'clock, p.m., the committee took recess.

## CONTENTS

---

Tuesday, May 15, 1973

Commercial standards programme, continued .....	S-377
Recess .....	S-412









# Legislature of Ontario Debates

## STANDING COMMITTEE ON SUPPLY

Estimates, Ministry of Consumer and  
Commercial Relations

Chairman: Mr. J. A. Taylor

OFFICIAL REPORT — DAILY EDITION

Third Session of the Twenty-Ninth Legislature

Tuesday, May 15, 1973

Evening Session

Speaker: Honourable Allan Edward Reuter

Clerk: Roderick Lewis, QC

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 15, 1973

The committee resumed at 8 o'clock, p.m.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1302:

**Mr. Chairman:** Gentlemen, we will resume discussion on item 6, vote 1302. Any further discussion?

**Mr. A. J. Roy (Ottawa East):** Mr. Chairman, could I make a brief comment?

**Mr. Chairman:** Brief comment, fine.

**Mr. Roy:** I won't promise that they'll be brief, Mr. Chairman, but they'll be to the point as usual.

Mr. Minister, I consider this business practice, as this item appears in vote 1302, to be one of the more important items in the entire estimate, because I consider that this is really the field where in the future this is where you'll require more and more government control and, in fact, regulation.

While we're speaking on that topic, I might congratulate you, Mr. Minister, in supplying us with these little coloured charts here. I find them very helpful in staying on track and keeping to the point. I notice under this business practice there are a number of items here. You deal with the consumer protection bureau—

**Mr. P. D. Lawlor (Lakeshore):** Do colours attract you?

**Mr. Roy:** No, I see I'm talking a lot here, and we are dealing with a green colour, so the Liberal Party, the Liberal boys, are usually flexible on that. In any event, Mr. Chairman, you recall we discussed—or Mr. Minister—your bringing in legislation to control the use of credit information. I feel this is very worthwhile. But unfortunately many people, as you know, have their reputations, or even their careers, jeopardized because of information on these credit reports which was questionable.

I would hope that the role of government is not always to come into a situation where people have already been hurt or affected by something. We can predict, if a particular

mode of activity takes place, that maybe we should regulate it now before somebody is affected by this. I suggest to you that that's what we did as far as credit information or credit reports were concerned.

This is the reason, Mr. Chairman—Mr. Minister—that I suggested to you, a few days ago, you will recall, in relation to when you brought this legislation into the House for first reading—it had been brought in last year and it was brought in again in this session—I suggested that in your information you should bring in legislation as well to limit the use, and control the use, of fingerprinting by companies.

You recall I discussed it with you for some time. This practice started about a year ago—over a year ago—when a company called Identiseal—which was really an offshoot of a Texas company, from Fort Worth, used a computer. The idea behind it was that individuals who intended to buy merchandise and pay with cheques, were asked to put their fingerprint on the back of the cheque on a seal that was glued on it. The theory behind it was that if the cheque was good, your print was returned with your cancelled cheque. Of course the whole idea of this is to avoid the use of bad cheques—the idea being that if someone's got his fingerprint on file with the police he's not likely to come along and pass a bad cheque or give his print in a store.

When the matter was first raised here, I can recall that the company, based in Calgary, had said that it was keeping the prints in Fort Worth, Tex. Then they retracted that when there was some fuss created about it in the House here last year.

I brought in a bill last year on this, or a private member's bill. Then they said: "No, our computers are going to be here in Canada, we are not going to have the information go across the international line into the US. Our computers will be here in Canada."

I thought this Identiseal had backed off a little bit. The chain stores were not getting into it, until very recently in the Ottawa area where some of the larger chain stores, like IGA, joined. All of a sudden people walked in to a store where they had for a number



of years been purchasing goods and using cheques—which have been considered for many years as a legal form of tender—and were placed in a situation where they had to give their prints.

I personally find it very offensive, first of all, to give up my print. Personally I wouldn't do it. I think most Canadians are under the impression, and rightfully so, that under our system of law there is only one occasion when you are forced to give your prints. That is when you are charged with an indictable offence. Then, under the Identification of Criminals Act, you are forced to give your print.

Really this company, Identiseal, is doing what many governments are loath to do. You recall in Quebec after the crisis in 1970, the FLQ situation, that there was some mention by the Minister of Justice that maybe it would be a good idea to have people's prints and photographs on driver's licences. There was such a fuss about it that he backed off somewhat.

Yet these companies, or this Identiseal has managed to convince some of the large chain stores. If they are starting with IGA, for instance, in the Ottawa area, which probably is the largest chain store in that area, and if you get the other chain stores to start using it, you are going to get into a situation where anyone who wants to use a cheque will be forced to give his print.

I personally find that offensive and I think there should be some legislation now to control the use of them. Right now, even though they tell you that they'll return your print, there is nothing to stop them from taking a photograph of that print. It is very simple to take a photograph of it. Then, once they have your print, they can have a bank of prints and then they can do whatever they want.

They can exchange this information just as they exchange credit information. Credit information was supposed to be limited and yet it was available to anybody who sort of had a pass or somebody who had an in with a credit company. So I'm saying that we should limit it.

Really, very frankly, considering that there's a very small percentage of people using cheques who are abusing that privilege, to fingerprint everybody who's using cheques to get a small percentage of the people who, in fact, pass bad cheques is most offensive.

I'd like to get some response from the minister on this. Why couldn't we have legislation now, first of all? I suppose if people

want to give up their prints, we can't stop them, if they want to give up their prints voluntarily. But we should be sure as hell that they do make it voluntarily.

I'm suggesting that, first of all, they're preying on women—it is most often women that are shopping in these large stores, especially these chain stores, these grocery stores. What happens is that without any notice whatsoever, after she's been shopping for two hours, she comes to the counter and all at once the method of transaction is changed. Unless she takes the groceries back or pays cash, they say: "We won't cash your cheque unless you give your print."

We should have legislation, forcing every store which is using this method to put a large sign outside the store saying: "If you intend to buy groceries" [or buy whatever they sell] "with cheques, your fingerprint will be required."

The second thing: We should have legislation saying that if people have other forms of identification they should not be forced to give their prints.

The third thing is, if the print is used, a limit should be imposed on it. It should be in the legislation that they can't make any use of it, other than what is intended because at present there is nothing stopping it.

I can't really blame the stores. I suppose the stores will use any method they can to cut down on the use of bad cheques. I can't really blame them, because Identiseal goes to a store and says: "Look, we will guarantee that you won't lose a penny through the use of cheques." If there is a bad cheque, what the store does is give it to Identiseal and Identiseal is the one who runs after the individual.

I think it is to be noted that most bad cheques given stores are not from people who are dishonest, but people who didn't have sufficient funds in their accounts at that time.

I would just like some response from the minister as to why we couldn't control the use of these prints right now; why you couldn't have it in your consumer legislation in relation to limiting the use of credit information; why we couldn't do this with fingerprints.

**Hon. J. T. Clement** (Minister of Consumer and Commercial Relations): Mr. Chairman, the matter of Identiseal, which I believe is the trade name of the company that brought this into the Canadian market, has been discussed at some length by us in our ministry and in

our policy field. The police act under the Identification of Criminals Act, which is a federal jurisdiction and a federal matter.

**Mr. Roy:** Yes.

**Hon. Mr. Clement:** I understand that Identiseal is being used in other jurisdictions in Canada other than the Province of Ontario. It might well be that this is a matter which should be debated perhaps at some length when the Consumer Reporting Act is before committee. As I have indicated, I will take it before a committee of the House as opposed to the whole House.

At this point I feel that we might well consider the transmission of fingerprints across the border. Under the Consumer Reporting Act we make a point of making it mandatory that credit information and personal history information is not to be stored in a repository outside Canada. It might well be that we can add fingerprints at that time. I am not turned on or off one way or the other about it.

I would not personally like to become involved in leaving my fingerprint for any particular purpose. I suppose that can be countered with the question: "Well, why not? Are you afraid of a criminal offence involving the use of fingerprints involving you?"

I feel somewhat strongly about any information pertaining to our citizens being stored outside the borders of Canada. I can't see how it is going to be of any advantage to Canadian citizens or a citizen of this province. So I will reserve the rest of my comments—and I can assure you that they are not very profound—but I would like to reserve them for discussion before the committee to see what their feeling is.

It is pretty obvious that paper-hangers are not going to go into a store that uses the Identiseal type of thing unless they are sick and unable to reasonably come to a conclusion. A professional forger isn't going to avail himself of those facilities. But I question the validity of Identiseal unless every retail outlet uses it, because if he can't get it at store "A", he is just going to shop until he gets down to store "X" and goes in and cashes his cheque.

**Mr. Roy:** But the ironic part of it is that they require identification anyway, because they have got to identify your print. So you have got to submit identification anyway.

**Hon. Mr. Clement:** I think one of the problems they run into is forged drivers' licences and stolen documents and things they

pick from people's pockets, and this sort of thing. But I believe you have introduced a private member's bill into the House—a copy of which I have in the consumer reporting file—and I suggest that maybe we can debate it at some length before the committee. It will be this committee, as a matter of fact.

**Mr. Chairman:** Any further discussions?

**Mr. Roy:** Yes, on this topic I would like, Mr. Minister, you know you have quite a number of statutes. It is fantastic the number of statutes that you have to sort of keep an eye on in this ministry. I was just wondering if you have investigators out in the field?

There is obviously some overlapping without too much logic between what you are doing and what the federal government is doing with its Consumer and Corporate Affairs, I guess it calls it. It keeps an eye on children's car-seats and on misleading advertising and standards of products.

I am just wondering where your department fits in. I can't see the line of jurisdiction—which is theirs and which is yours. For instance, who controls just looking at the ads in a newspaper—all these body-rub studios?

**Hon. Mr. Clement:** Maybe that's stuffed under "upholstered and articles."

**Mr. Roy:** Maybe I am in the wrong part of the estimates.

**Hon. Mr. Clement:** You are working under the old rules.

**Mr. B. Newman (Windsor-Walkerville):** You are not talking from experience, are you?

**Mr. Roy:** No, I am not talking at all from experience, although it is somewhat tempting when I read some of these things—"featuring topless body rubs, sunken Roman baths, needlepoint showers, saunas" and all that.

**Mr. F. Young (Yorkview):** What has this to do with the whole thing?

**Mr. B. Newman:** Doesn't the ministry send fellows in to check on this?

**Mr. Roy:** For instance, what standards do these people have to keep? I think there is some art or at least some—is there not some standard required for masseurs or this type of person?

**Hon. Mr. Clement:** Yes, there is an Act administered by the Ministry of Health.

**Mr. Roy:** The Ministry of Health?



**Hon. Mr. Clement:** The Ministry of Health deals with the registration of masseurs and masseuses. I must admit I was shocked to learn that someone as young as yourself was reading that kind of advertising.

**Mr. Roy:** I just read the ads.

**Hon. Mr. Clement:** Well, that is good. I understand you are a married man and I direct you to your vows. In any event, a lot of these places are not the so-called—

**Mr. E. Sargent (Grey-Bruce):** He was doing a little research last night.

**Hon. Mr. Clement:** A lot of these places are not operated by people registered under the statute. I forget the name of the darned thing—I used to work for the Ministry of Health years ago—but they are monitored. These are monitored right now in the event that criminal acts are thought to occur in any of these establishments. I am told they are monitored by the Metro police here in the city of Toronto.

Insofar as determining jurisdiction between the province and the federal government, the rule of thumb seems to be that the federal government is seized with the responsibility relating to standards or quality of product and the provincial government is more concerned with the distribution of that product.

There are some exceptions, and we laughed about the Stuffed and Upholstered Articles Act, which is an Act where we deal with the standard or quality of the product by virtue of the fact that no one else is in the field and the federal government indicated no interest at the time the Act was brought into being. So I suppose by default we moved into it.

I have met with my federal counterpart, the hon. Herbert Gray, the Minister of Consumer and Corporate Affairs in Ottawa. The two departments, that is my ministry and his, try to work as closely together as possible in order to avoid duplication of services.

They are embarking on a programme of opening consumer offices in various places across the province and the minister himself has assured us that he will not open an office in any area without consultation with my people in the event that we move into that field much more broadly than we are in it today. We will likewise communicate with him, because it would be a shame if there were two offices theoretically next door to one another in a small city or town, duplicating services in effect. Many inquiries come in from the public that rightfully belong to the

federal people. The inquiries are referred by our people to the federal ministry and vice versa.

**Mr. Roy:** I take it it's a question of who occupies the field first, sort of?

**Hon. Mr. Clement:** That's about it. So many of the commercial problems we run into today are not really limited to the boundaries of this province, but are problems relating to the whole country. Quebec, for example, is thinking of moving into a field that rightfully is occupied by the federal government. I'm referring now to TV advertising, particularly the advertising directed at children. But because of an absence of activity, in the opinion of the Quebec consumer minister, he has obtained an opinion of counsel which indicates to him that he has jurisdiction in this field. He advised the federal minister in my presence that he's moving in that direction.

So, in a lot of these things I think we move into them almost by default. If there's no one there and there's a need, then—and the person we feel rightfully should be in the field, for one reason or another, doesn't want to get into that field—then I think by default we have to move into it.

**Mr. Roy:** Yes. You take for instance, you know, certain services. Who keeps an eye, who protects the consumer to see that services are adequate or are proper? You know, I—

**Hon. Mr. Clement:** Well, there are many areas where the consumer is not protected. There are many areas of personal contract, including marriage. Who protects you that you picked the right girl? I mean, presumably you acted on your own initiative.

**Mr. Lawlor:** She did!

**Hon. Mr. Clement:** I take it that she did. There are many areas that are not occupied by anybody, in the sense that the consumer is—

**Mr. Roy:** Yes, well, you gave an extreme example there.

**Mr. Lawlor:** And did he ever need it. Made a man of him.

**Mr. Roy:** I hardly need protection, you see? But some poor guy—

**Mr. Lawlor:** Sorry to interrupt you, Mr. Minister.

**Hon. Mr. Clement:** Well, I was being facetious when I said that, of course. But there are many areas that are not occupied, because



to occupy a field—it's all well and good to say the public demands a service, but that same public, in its next breath, is lamenting the increasing and escalating costs of government in providing services. I think that we have to take a look at some practices which are being worked on the public and make a determination whether or not it's just affecting a very small group of people. Hell, they were selling machines that converted lead into gold 500 years ago and they're still selling.

**Mr. Roy:** And they're still buying.

**Hon. Mr. Clement:** And they're still buying. I mean, we could pass a lead and gold Act—oh boy, let's get rid of that problem. But you and I know that it just doesn't resolve itself by the passage of an Act, so you have to set up the machinery to monitor a group of people, a particular activity. Unless you can successfully monitor it, then you're sending good money after bad, because it's like legislating against cancer—let's pass an Act saying it's prohibited from here on in. But you and I know that that's just ridiculous.

**Mr. Chairman:** Mr. Sargent.

**Mr. Roy:** Well, Mr. Chairman, I just have a couple more—

**Mr. Chairman:** You're not through yet?

**Mr. Roy:** No, I'm not through yet.

**Hon. Mr. Clement:** He's just getting warmed up.

**Mr. Lawlor:** May I interrupt the debate with respect to this particular area, the division of powers and federal-provincial relations? It's a thorny and labyrinthine path that was chosen. Year after year we ask you to carefully delineate for us the nice distinctions, such as you see them, in a variety of fields. One of the things I had down before me was precisely that.

For instance, I'm looking at a press release from the Department of Consumer and Corporate Affairs dated May 20, 1971. It notes that there's going to be a conference—there was one again last year; there's going to be another one, no doubt, this year—with respect to, say, drug prices and hazardous products. I want to dwell on it a moment—on hazardous products, misleading trade practices, packaging and labelling and various other concerns. Then, jumping down: warranties and guarantees, metrication, bankruptcy, consumer information and consumer credit.

Let's just touch upon the area of hazardous products. It seems to me—this is the wrong way to start by being too positive, it's always wiser to take a neutral stance. But anyway, in hazardous products it seems to me that the federal government has usurped your jurisdiction, by and large, and that your role is negligible and dilatory and that in every forthright area, including hazardous toys, they've moved ahead of you. It's not you personally, Mr. Minister, of course, but your department.

It seems to me that this item under property and civil rights would certainly be an area in which you would have a good deal to say. That's a provincial jurisdiction—I think you're dead wrong on most taxation matters, with respect to the jealousy with which you guard your chosen little area, but in the area of consumer affairs they've overridden you. You come along like a trailing entity afterwards, trying to find a little something to do here and there. You pick up the rag tag and bobtail of consumer affairs.

The ministers up in Ottawa seem to have more intrepid souls and move into the various areas and provide for them. You may argue that it has a cross-country justification. On the other hand, you're not slow on occasion, you know, to talk about giving leadership to the rest of the country. But where, in the area of such things as hazardous products, have you shown this forthrightness and sense of pioneering? And where do you see the divisions of labour lying, as between you and the federal constituency, over a matter like products of this kind?

**Hon. Mr. Clement:** Well, as a trailing appendage, can I now reply to that? You can talk about the leadership provided by the federal people. I don't know, for example, of any federal mortgage brokers Act, any federal real estate and business brokers Act, any federal used motor vehicle dealers Act. And yet these practices have been going on—

**Mr. Lawlor:** They disdainfully visited all those things upon you.

**Hon. Mr. Clement:** Well, what I'm saying by inference, and I may as well say explicitly, is that they have not, in many areas of activity for one reason or another—and I'm not being critical, I just state it as a fact—seen fit to invade the field and to do anything about it. Sometimes we have invitations extended to us by various groups to assume jurisdiction of a field or within

a particular field, and often our legal people tell us that it's ultra vires to the province, that we have no right to be in that field.

**Mr. Sargent:** Question, question! You mean to say you assume jurisdiction. Do you have the power to assume jurisdiction in a tax field, or what?

**Hon. Mr. Clement:** Oh, no, no. I'm talking, Mr. Sargent, particularly about where there's a void or a vacuum—no one is in the field and we feel something has to be done.

**Mr. Sargent:** Before the supper hour, Mr. Minister, you said you couldn't regulate interest rates because it's a federal field. Well, why couldn't you assume that very important field?

**Hon. Mr. Clement:** Because there's already legislation under the federal interest Act to this effect. If we brought in a provincial interest Act, number one, if it was identical to the federal Act there would be no purpose in enacting it. Number two, if we said, "Well, here's what we say we're going to do within this province," then immediately there's a jurisdictional fight. Because if you and I are on opposite sides of a lawsuit, you're saying, "Well, I'm asserting the federal position," because it happens to support your side of the lawsuit, and I say, "Well, I'm assuming the provincial—"

**Mr. Sargent:** But if you, Mr. Minister, think it's important enough to make an issue over, why not?

**Hon. Mr. Clement:** Well, there's no sense enacting legislation just for the sake of having it on the books if you have no power to legislate.

**Mr. Lawlor:** It's an occupied field, I mean—

**Mr. Sargent:** I don't know, I'm just asking.

**Hon. Mr. Clement:** We can enact our own provincial criminal code and it would have absolutely no effect.

**Mr. Sargent:** Well, it's a hell of a mess, that's all.

**Mr. Lawlor:** Well, the only thing I'm interested in is not the occupied fields, but in those overlapping fields, and so on, which are not occupied or only partially occupied. How do you find accommodation between the two of you?

**Hon. Mr. Clement:** Well, in the distribution of goods or services we do this by applying our rule of thumb which, as I say, has certain exceptions. We feel that this is a provincial matter and if there's a vacuum there, then we will approach it on that basis and decide either yes or no to enter the field.

**Mr. Lawlor:** I want you to be more specific. Leave aside hazardous products. Misleading advertising is done under the Combines Investigation Act, it's done under your Consumer Protection Act. How do you work together on that?

**Hon. Mr. Clement:** Well, we've assumed certain jurisdiction under the Insurance Act; we have companies carrying on business in this province that are provincially incorporated under our Insurance Act and we have certain prohibitions in there as to misleading advertising and we enforce them. It has never been challenged by our federal people.

It has always been presumed that for one reason or another—the legality of which I haven't studied—television and that sort of thing is a matter for the federal field.

I might add in dealing with misleading advertising on television, that it is a real concern to my counterpart in Quebec; misleading advertising particularly directed toward children. It is of real concern to him, so he tells me.

As of the time we met in January with our federal counterpart in Ottawa, we had not one written complaint relating to this sort of thing. We are in a little different position here in Metropolitan Toronto and southern Ontario because of the overlap of American or US news media—particularly in the television field—coming into this area.

If I were challenged with the question as to why we don't regulate TV servicemen, I don't think that I would consider it an affront to the authority of the federal minister if I assumed that jurisdiction. I would feel that it probably is a provincial matter, the selling of the service.

**Mr. Lawlor:** Mr. Minister, excuse me for calling you too much of a lawyer, eh? You are very adroit and very devious and very kind.

**Hon. Mr. Clement:** You sound just like my wife, except for the charming bit. You are much better looking too.

**Mr. Lawlor:** He has without a shadow of a doubt the most charming wife. That's the reason for his success.



**Mr. Roy:** But, Mr. Minister, let's really face the fact. Let's call a spade a spade. The provinces, by and large, don't mind the federal government occupying a field or taking over a field if it is going to save them money. There is a question of monetary matters in there as well. If the federal government is going to come into a field and occupy it and is going to be supplying the money to control that field—there is no great big fight about it. Wait until you get to the places where there is going to be revenue coming out of that field, that is when you get jurisdictional disputes.

**Mr. Lawlor:** Ontario never has any dispute when it has to pay out money; it stays out of it.

**Mr. Roy:** Yes, well I mean if there is an expense involved, most provinces don't mind if the federals come in. That is one of the factors you know; because if Ottawa came in and tried to occupy some of your taxation fields, there would be a hell of a fight.

**Mr. Sargent:** Mr. Chairman, I am getting sidetracked here.

**Mr. Chairman:** Well, you are next. One of your own colleagues is up right now.

**Mr. Sargent:** Well, you had better speak to him.

**Mr. Chairman:** No, he is number two. Okay, Mr. Sargent come on. You are number three, I am sorry.

**Mr. Lawlor:** I haven't finished my questioning. I am not finished.

**Mr. Sargent:** The Chairman is doing a good job, let him alone.

**Mr. Lawlor:** Are you still on federal-provincial relations?

**Mr. Sargent:** I am going to help you here; I am going to help you.

**Mr. Chairman:** Go ahead, Mr. Sargent.

**Mr. Sargent:** Could I ask the minister: If a finance company wanted to have a provincial charter, you could write into that charter legislation that it could not charge exorbitant interest rates—you could control it that way, could you not?

**Hon. Mr. Clement:** You can obtain a provincial charter as of right if you comply with the requirements of the Act, and you must spell out in that Act who your director, or

directors are going to be; your first directors. You must spell out the objects of that company. And if we started to assume—

**Mr. Sargent:** Make it conditional.

**Hon. Mr. Clement:** All right, if we made it conditional, in my opinion they could very well contest that by saying they want to go into—

**Mr. Sargent:** So what? Let them contest it. We are the law.

**Hon. Mr. Clement:** Well, no, you are only the law within your own field. We could put into the charter, for example, that these people are given this charter conditional on none of the provisional directors ever breaching the Criminal Code of Canada—and we could put anything in, but it doesn't mean anything.

**Mr. Sargent:** You know what I am trying to say? I want to have some protection on interest rates in the Province of Ontario. The price of gasoline varies across Canada, coast to coast, the price of beer varies coast to coast, but the price of money is constant coast to coast; that is wrong.

**Hon. Mr. Clement:** Yes, but I am not a constitutional lawyer. What you are raising are constitutional problems as to certain areas, which are expressly reserved to the federal government under the BNA Act and those which are preserved unto the provincial governments. Each government very jealously guards its own jurisdiction under the BNA Act.

Now the BNA Act has been challenged in the courts many, many times on constitutional matters as to who can rightfully occupy the field. While this is an interesting discussion, in the last 7½ months I have never run into any problems—

**Mr. J. A. Renwick (Riverdale):** Mr. Chairman, may I interrupt? Was there a quorum in the House when the BNA Act was passed?

**Hon. Mr. Clement:** What is a quorum? We are much more deeply into this problem.

**Mr. Lawlor:** The trouble with the British North America Act is it is unconstitutional.

**Hon. Mr. Clement:** I have never run into any problems of jurisdiction with my counterpart in Ottawa in the last 7½ months. But there is one looming over the hill. The federal minister, or his predecessor, has introduced a Competition Act—



**Mr. Lawlor:** Ah, we will come to that shortly.

**Hon. Mr. Clement:** And that was introduced last year and allowed to die on the order paper.

**Mr. Renwick:** It was killed, overkilled.

**Hon. Mr. Clement:** It starts to get into the field of trade and commerce. I haven't heard as of today—we had some brief discussion on this yesterday—I am not sure it has been reintroduced yet. My information is that it has not, but it was indicated to me that it would be reintroduced and this may have a very long-range effect on trade and commerce.

**Mr. Lawlor:** Have you seen the new bill?

**Hon. Mr. Clement:** No, I have not; it hasn't been reintroduced. He told me it would be rather substantially altered from the form it took last year when it was introduced, but he didn't tell me the extent of those alterations; and as a result we have to sit and wait. The province has taken a certain position in a formal paper submitted to that—

**Mr. Sargent:** You are getting to be a good stick-handler. I would like to know what I am asking you. The last statement—

**Hon. Mr. Clement:** We have to wait and see what the Act says—

**Mr. Renwick:** No, no, we are going to have a slight discussion about it.

**Hon. Mr. Clement:** How is it going to interfere with trade and commerce within the four boundaries of this province? It is only conjecture at this point until we actually see the Act and consider the implications of it, but there may be a jurisdictional dispute here between the provinces and the federal government as to the role that the federal government is trying to assume under this legislation. Right now, we don't know.

**Mr. Sargent:** Does that have anything to do with the price of money?

**Hon. Mr. Clement:** No. Money, banking, interest, Criminal Code—they belong to Ottawa. I can bring in a provincial criminal code tomorrow and we could have more fun with it, but it is just an exercise in futility because they have the field under the BNA Act. And we cannot—

**Mr. Sargent:** I won't flog this any more but if a firm wanted a provincial charter and you made it conditional that they couldn't charge more than a certain rate of interest, that

would be your control factor. You couldn't do that?

**Mr. Renwick:** It is unconstitutional.

**Hon. Mr. Clement:** It is unconstitutional.

**Mr. Sargent:** Well, let's make it constitutional.

**Hon. Mr. Clement:** I like you; that is the way to do it.

**Mr. Sargent:** Well, I mean I don't see why they wouldn't be receptive to it. You will be the mover here; they will buy it in Ottawa.

**Mr. Lawlor:** Have you ever seen any of them give up one ounce of their authority?

**Mr. Sargent:** I probably have.

**Mr. Chairman:** Mr. Lawlor, you have 30 seconds left of the two hours allotted to you.

**Mr. Roy:** No, Mr. Chairman, I am not finished.

**Mr. Sargent:** Mr. Minister, will you give it a shot?

**Hon. Mr. Clement:** That, in my opinion, subject to counsel's opinion, would be unconstitutional of us. They could apply to the court and say: "We ask the court to delete this condition, as we say the province hasn't got the power to impose it."

**Mr. Sargent:** Thank you.

**Mr. Lawlor:** Mr. Roy, are you still on federal-provincial?

**Mr. Roy:** No.

**Mr. Lawlor:** Well, I would like to stay on federal-provincial for the time being. What the minister said is, as I said, completely charming and I am taken in. He mentions the Insurance Act and the advertising of a provincially incorporated insurance company, and says that what that kind of an institution would do, would of course fall under his domain. No one ever disputed it.

Secondly, he ranges off on the other side of the fence to communications, interprovincial communications—radio and what not—which has been under federal jurisdiction since the radio aeronautics case in 1926—that is all there is to it; Supreme Court reports, I think, page 922.

**Mr. Sargent:** Pick a number.

**Mr. Lawlor:** Talk about total recall; and that is after 25 years away from law school.

**Hon. Mr. Clement:** I understand you were the counsel in the case.

**Mr. Lawlor:** He takes the TV field, which no one disputes as federal, and says that they advertise on TV. What I am interested in, Mr. Chairman, if the minister will bear with me, are those grey areas of jurisdiction in between. In those areas, and sticking straight to misleading advertising, how do you and your counterpart, Herb Gray up in Ottawa, find accommodation each with the other in this area? Do you sit down and do you say about a certain kind of product, a drug product, or a hazardous toy, or whatever it might be, "I will delegate this to you if you will just leave me alone with deodorants"—how do you do it?

**Hon. Mr. Clement:** Well, maybe I can answer that if you will give me some examples of this misleading advertising that we are talking about. Give me some examples of misleading advertising.

**Mr. Lawlor:** That would give the game away.

**Mr. Renwick:** Perhaps I could help my colleague. The onslaught of food market advertising prior to the increase in prices all dealt with the downswing in prices and the premise that the consumers were getting the best prices at a time when food prices were going up. Did the minister look into the—

**Hon. Mr. Clement:** No.

**Mr. Renwick:** —advertising campaigns of Dominion Stores or Loblaws, in any way?

**Hon. Mr. Clement:** No, I did not. I have never for a moment presumed that I have jurisdiction as to the cost of food products. I am well aware, because I was in the House of Commons as a spectator watching the debate, listening to it very carefully, on the formation of the food cost committee that was being constituted as of that time.

I'm not aware of the advertising to which you refer. I take it that it was sponsored by a market within Ontario, one of the big chain stores of some kind or another.

**Mr. Renwick:** I'm referring specifically to the Dominion Store advertising which in its advertising campaign used some of the leading publicists of the media in the Province of Ontario. It was subsequently matched by Loblaws, during a period of time when the food chains knew that we were about to face an increase in food prices.

It was a concerted campaign to persuade the community in the Province of Ontario that the prices were being controlled effectively by the retail chains, at a time just before the advent of very substantial price rises.

The minister must be like me, impervious to advertising. I can't remember any of the themes. But the themes still run on radio and television. I guess I'm now immune to them.

**Hon. Mr. Clement:** I think one of the reasons, of course, that no province has ventured into the field of price fixing, insofar as consumer food is concerned—and I think I mentioned this last Thursday when we were discussing a similar issue—is that you may drive the producer of the product to markets outside this province. The consumer in the long run may suffer because of the scarcity or non-supply of the goods. This in turn will cause those goods to spiral in cost because black markets and this sort of thing will flourish.

I have never discussed this in any policy field or in cabinet, but personally I regard the matter as one of national concern. I don't think high food costs are limited to the Province of Ontario. I think my counterpart in Ottawa and the federal government has pretty well agreed with that type of approach by setting up the House of Commons committee to look into the question of food prices and where the profits are spinning off to.

**Mr. Renwick:** But don't you assume jurisdiction in respect to misleading advertising under the Consumer Protection Act?

**Mr. Roy:** The field is already occupied.

**Mr. Renwick:** No, I am not making a constitutional argument as to whether it is occupied federally or not. The fact of the matter is that there is a provision in our Consumer Protection Act which may well duplicate—as the Highway Traffic Act duplicates—offences in the federal Criminal Code about driving—offences related to advertising.

It seems to me that the drift of what my colleague was saying is, should we get out of the game, or should we make it meaningful? Unless we are prepared to cope with the onslaught on the consumer market of advertising by Dominion Stores and Loblaws, then we might as well get out of the game and figure we can't cope with it. That is the kind of advertising which deserves investigation—sophisticated advertising as to whether or not it was misleading. I'm suggesting—I



cannot prove it because I don't have the staff to examine it—that it was a preconceived campaign to induce the consumer, the buyer of food products in the Province of Ontario, to believe that he was getting his food at the best possible prices. And this came just before a time when people knowledgeable in the food business would assume that the pressures were such that food prices were going to rise, and rise substantially.

I question several aspects of it. I question the ethics of those members of the media who disseminate news through the media, and who lend an aura of respectability to an advertising campaign on behalf of the food chains, for the express purpose of transferring their respectability to the prognostications of the food chains.

I think that kind of campaign is insidious with respect to false advertising. It seems to me that either the federal government should have a responsibility to deal with that kind of advertising or, if we are pretending that we are in the game, we should deal with it. I personally think that until there is active evidence of the federal government totally occupying the field and wanting to challenge our position constitutionally, that we should be in it.

I think that you have a responsibility, nothing to do with fixing prices, but a responsibility to see whether or not those extravagant, sophisticated advertising campaigns are in fact misleading.

**Hon. Mr. Clement:** Well, you make a point. I have had no complaint whatsoever directed—do you like that point?

**Mr. Renwick:** I thought it was a good point.

**Hon. Mr. Clement:** Yes. That's a good point.

**Mr. Lawlor:** It was well put too.

**Hon. Mr. Clement:** I have had no complaints come to my attention relating to the particular ad or series of ads of which you have just spoken. I can only conclude therefore that the public has not found it in its assessment misleading, or hasn't found it of significant importance to bring it to the attention of my ministry. If there is no action then there is no reaction.

**Mr. Renwick:** That's precisely my point, Mr. Minister. The public as such cannot assess, and has no way of assessing the validity of that advertising campaign in relation to overall trends in the level of food

prices. There is no way. The last thing that I—

**Mr. Sargent:** There is no way you can call it false advertising. That's my business and I think you are away off-base.

**Mr. Renwick:** I would understand that the member for Owen Sound would think I was off-base.

**Hon. Mr. Clement:** I am not saying we are engaged in the field of—

**Mr. Sargent:** This is ridiculous.

**Mr. Renwick:** It's just as much off-base as having a different money system for the Province of Ontario and the rest of Canada. It is perfectly clear, Mr. Minister, that the food industry enlisted persons of respectability to support a proposition that the food prices for the people of the Province of Ontario were the best that were possible and that there was a high level of economic competition within the food market. All I'm saying to the ministry is: Is there a responsibility on the ministry, in the light of the events which took place, to assess or make an assessment as to whether that was misleading advertising. There is no consumer I know of who has got the skills or abilities or knowledge of the market in food products—

**Mr. Sargent:** But you have—you say it is false.

**Mr. Renwick:** —to make that assessment.

**Mr. Sargent:** You have. You say it is false.

**Hon. Mr. Clement:** Well, I would take the position that—

**Mr. Renwick:** Mr. Chairman, I don't want to correct the member for Owen Sound. I didn't say it was false. I said that if we are engaged in the field of misleading advertising, it is our job to make assessments of that kind of programme.

**Hon. Mr. Clement:** I am not saying that we are engaged in the field of misleading advertising as a general statement, save and except as to those statutes that specifically contain powers to deal with misleading and deceptive advertising.

It's in consumer protection. There is also the Insurance Act, the Motor Vehicle Dealers Act, or the Real Estate and Business Brokers Act, all of which have sections dealing with it.

Generally speaking, I have always been under the impression that misleading and de-



ceptive advertising has been within the bailiwick of the Combines Investigations Act people. I have personally engaged in defence of people charged under sections of that Act for misleading and deceptive advertising. From the example that you touch upon, being introduced over the medium of TV, I would presume that the federal people would have a double-barrelled shot at it, first because of their Combines Investigations Act and second because of their occupying the television field.

I may add that the advertising people have a code of ethics, a copy of which was sent to me some time ago. They have undertaken to be bound by that code and in certain instances have been quite prepared to chastise or criticize vocally members of their association who did not adhere to it.

That by itself may not be the end of the problem, but they are very conscious of their responsibility to the public and hopefully they are responding in a positive fashion to that responsibility.

**Mr. Chairman:** Mr. Riddell.

**Mr. J. Riddell (Huron):** Mr. Chairman, the minister has been doing his share of assuming tonight, so I am going to assume that he will not mind listening to some ordinary laymen's language, after being graced with such eloquent rhetoric on the part of other members of this committee.

**Mr. Chairman:** You are right, you are right.

**Mr. Riddell:** Although I am patting myself on the back, I have found since coming into the Legislature that there are words such as fertilizer which can be used in place of others that best describe the product.

In the absence of the member for St. George (Mrs. Campbell), who is more familiar with this problem than I am, I am wondering if someone in your ministry investigates the rather curious practices that are carried on between certain corporations and retail outlets such as Consumers Distributing. Is the public aware of the fact that if they were to buy, let's use for an example a Fleetwood stereo set, from Consumers Distributing, and they got the set home only to find that it was defective, and they had also been issued a warranty which they fill out, they would find that the warranty was not applicable, simply because they purchased it through Consumers Distributing, rather than purchasing it through Fleetwood Corp. itself?

I am in possession of a letter here that I will be giving to you from a couple that

did buy a Fleetwood stereo set from Consumers Distributing, and it was defective. As soon as they unloaded it and tried to operate it, it was defective. When they got in touch with Fleetwood they found that apparently Fleetwood has made some arrangement with Consumers Distributing that if the product is bought through Consumers Distributing, then there is no way that anybody has to stand behind the product. Were you aware of this fact and should the public be made aware of this fact?

**Hon. Mr. Clement:** I was not aware of any fact pertaining to that particular outlet. I am aware of this practice prevailing at certain other outlets. In the cost of a product, presumably, there is the cost of manufacture, the profit, and the cost of participated servicing on that product. When you buy the product at a discount perhaps, as you have indicated, you forfeit part of what you thought you were purchasing.

This is the very matter that has concerned the government sufficiently to instruct the Ontario Law Reform Commission to look into the whole field of warranties and guarantees. This has resulted in a report, a green paper, which will be tabled by me in the House in the not too distant future. It was the subject matter of a particular meeting in this very building last evening.

A warranties and guarantees Act is, in my assessment, a necessity. We are going to have to define by statute what a good number of people in the manufacturing and marketing areas have declined to adhere to—to make available to the public. If they are going to tell us that something is guaranteed but they don't tell us the terms of the guarantee, then in legislation we are going to say what the guarantee is. It is an age-old problem.

The word "guarantee" is one of the most common words, and least understood, by the public. How many times have you heard someone, perhaps in your own family, say they bought a product and it was faulty and they say, "I can't understand it, it's guaranteed." You say, "Guaranteed to do what?" and they are lost. They don't know what it is guaranteed to do, other than that the salesman said that that is guaranteed.

We are going to have to legislate what it is guaranteed to do. It is a very involved field. The whole concept of our common law has to be changed by statute in order to protect the consumer from this type of practice.

**Mr. E. R. Good** (Waterloo North): Does that apply to all appliances bought through Consumers Distributing?

**Mr. Riddell:** Apparently the manufacturer can make some kind of an arrangement with Consumers Distributing that if the customer does receive a warranty and finds that there is some defective part of the equipment that he bought, that the warranty is not applicable because he did buy it through Consumers Distributing. I would imagine that if one corporation has an arrangement of that nature with Consumers Distributing there are many others that have too.

**Mr. F. Young:** Do they buy more cheaply from Consumers Distributing than from the other companies?

**Hon. Mr. Clement:** I presume they buy it ex service. They buy it without any obligation on the part of the manufacturer to provide any service or guarantee on the product. The cost that's allocated to that unit is therefore deducted and presumably passed on to the purchaser by the reduced price.

**Mr. F. Young:** But he doesn't clearly understand that.

**Hon. Mr. Clement:** He doesn't understand that and I think this is the point that Mr. Riddell is making.

**Mr. F. Young:** Good point.

**Hon. Mr. Clement:** My deputy points out that with a good number of major manufacturers of major appliances, their guarantee stands behind their product regardless of the outlet. That happens to be company policy applied by that particular manufacturer. But unfortunately not all of them apparently adhere to this type of policy.

**Mr. Chairman:** Any further comment?

**Mr. Riddell:** If the corporation is not going to stand behind its warranty, if it does retail it through Consumers Distributing, then I don't think that the warranty should even be issued with the product.

**Hon. Mr. Clements:** It depends, Mr. Riddell, on the terms of the warranty. You can have a big document with a red seal and it says in 2-in. high print "Warranty—the company stands behind this except any working days, Saturdays, Sundays or holidays." In other words, what they give they take away. You have to look at the term of any individual warranty to make an

assessment as to exactly what is warranted. I am not familiar with this product, but I am surprised that they would give a document called a warranty and then what they give in that warranty in the first line they take away in the second.

**Mr. Chairman:** Mr. Young?

**Mr. F. Young:** Mr. Chairman, in following up on this field of warranties, the minister has had the Ontario Law Reform Commission report on warranties, and I presume that is what you referred to a while ago that is now being looked at. But there are two or three things which could be done, I think, short of what he is talking about.

I have been interested for some years, as the minister knows, in the whole field of carpets and carpeting, which has become quite a racket in areas like Metropolitan Toronto. People are being hoodwinked. According to them they are buying a carpet which is not up to the quality which they thought the salesman was selling them, yet the warranty is there.

I quote just a section from this report:

A particularly reprehensible form of deception is commonly found among carpet warranties offered by factory outlets in the Metropolitan Toronto area. In such cases the consumer finds to his dismay, after he has submitted a claim, that the warranty only promises him a pro-rata allowance on the purchase of new carpeting at a higher price. Only slightly less objectionable is the clause commonly found in almost all types of warranties making the warrantor the sole judge whether or not the product is defective, and whether the defect is attributable to the process of manufacture.

I have been advocating for some time that one simple Act could redress this situation a bit.

**Hon. Mr. Clement:** I agree.

**Mr. F. Young:** That is, legislation which says that when a customer signs a contract—not when he is shopping but when he signs a contract for a particular rug—that a small sample of that rug be handed to him with the contract. That means that if I am going in to buy a rug and I am hoodwinked to buy quality and don't know quality, but I sign a contract that I will pay \$11 a sq. yd. for that particular rug which is proved by a sample, that's my problem. But if I sign a contract for \$11 a sq. yd. for a rug which the salesman



showed me, and then delivered something which I think is different, and I have no proof, then I have a grievance.

If I have the sample I can compare what I get with the sample, and I have no recourse if the sample matches the rug delivered. But I have gone through this a great many times, because in the area where I live and where my riding is situated we have a great many of these outlets. A lot of new building is going on and there are a lot of people who listen to high-pressure salesmen. They look at the rug and they get their contracts signed and get the guarantee. Then they are certain in their own minds, when the rug is delivered, that it is not the quality they ordered but they have no proof.

I have talked to the managers of the outfit about this and they say, "There is no need to give a sample. If we start giving samples to everybody who comes in to browse around, we would be broke." I say I don't want that. All I want is a sample given when the contract is signed; that sample is the sample which the person accepts as being the quality he has ordered.

If he is a poor judge of a rug and he is hoodwinked that time, well, that's his problem. At the same time, if something entirely different from the one he ordered is delivered then it's the responsibility of the manufacturer.

I have had three or four cases of this kind. A particular one we fought through and finally won. A month after the rug was delivered at \$10.50 a sq yd—this was three years ago, which should have bought a fairly top quality rug—I was able to simply take my heel and tear that rug on the floor, where it lay. It was that kind of a rug. Certainly this chap knew enough about rug quality that the minute it was laid he said, "That is not what I ordered."

Finally, through the courts, we were able to establish that he was rooked but that was an exceptional case. Since that time, I don't think we have been able, in any one instance, to establish anything because of the lack of any sample. It is a simple matter of legislation and it would go a long way to make a warranty effective.

**Hon. Mr. Clement:** Mr. Young, Mr. Chairman, members of the committee, this has been of some concern to the ministry for some period of time, certainly preceding my entry into the ministry.

I commissioned a study and I mentioned this, I believe, last Thursday night during our discussions here on estimates. I entered into

a contract; I authorized the study as to a fair business practices Act or a deceptive trade practices Act. A study was undertaken by Prof. Neilson, York University. That study has now been completed and I have it in my hands.

The type of thing that you describe, Mr. Young, is the type of practice that this Act would prohibit. It would give a skeleton type of statute that would cover many areas of commercial activity, not only pertaining to the sale of rugs. We have had a good number of complaints against carpet manufacturers. We are now taking a look at the recommendations of Prof. Neilson and we hope to be able to implement this Act, hopefully before the end of this calendar year, by introducing legislation.

**Mr. Lawlor:** How does that tie in with the new federal Competition Act which has all kinds of clauses essentially along the same line?

**Hon. Mr. Clement:** I don't know until I see a copy of that Act once it is introduced. Right now the contents of that Act are just conjecture.

**Mr. Lawlor:** These particular sections of the Act are particularly in dispute. There are a number of other areas which we will come to. The federal government has fair marketing practices and restrictive trade practices and abusive practices on the market—in the widest amplitude imaginable just as you are going to have to cast your statute. I don't want to worry the issue unduly but it just happened to interest me how you enmesh your two jurisdictions, that's all.

**Hon. Mr. Clement:** I think when you get into a situation dealing with paving contractors, factory outlets for rugs and this type of thing, in the absence of any positive Act or activity by our counterparts at Ottawa, we have to consider that we must respond.

**Mr. Lawlor:** So who gets there firstest?

**Hon. Mr. Clement:** Not necessarily. I have a couple of areas of activity which I would gladly spin off to the federal government if it would have them, but it doesn't want them

**Mr. Lawlor:** In answer to your challenge on a couple of pieces of unfair advertising, I have written down "Creeds furs keep you warmer"; secondly, "Niagara wines act on the larynx like adrenalin."

**Hon. Mr. Clement:** I don't know anything about Creeds!



**Mr. Lawlor:** You are the greatest unbeliever I have met in a long time.

**Hon. Mr. Clement:** We were wondering if Creeds was an Indian tribe!

**Mr. Lawlor:** Talk about the credulous man! Are you going to answer or not?

**Hon. Mr. Clement:** How can I answer that? Were these ads on together? That is, if you drank the Niagara wine did you feel warmer in a Creed fur? I mean, was there some tie-in there? That's a distinct possibility, Mr. Lawlor.

**Mr. Sargent:** I would like to ask the minister if he—

**Mr. Roy:** Mr. Chairman, I didn't get a chance to finish my comments on this.

**Mr. Chairman:** Right after Mr. Sargent finishes, we will continue.

**Mr. Roy:** Yes, but don't you allow a member to finish his comments on one particular topic?

**Mr. Sargent:** No, they never allow you to finish.

**Mr. Chairman:** On all the other committees, yes, but not this one.

**Mr. Good:** You were lucky to get started.

**Mr. Roy:** It would be a lot easier and a lot smoother.

**Mr. Chairman:** We'll let Mr. Sargent go through because he is not as long-winded as you are. All right?

**Mr. Roy:** I am going to challenge your ruling here.

**Mr. Sargent:** You made a 15-minute speech at the outset.

**Mr. Roy:** It was good, though.

**Mr. Chairman:** We timed you, Mr. Roy.

**Mr. Sargent:** When we rose, I had the floor, you see.

**Mr. R. F. Ruston (Essex-Kent):** Mr. Sargent has a button on there that says something. He is allowed to speak more.

**Mr. Sargent:** Mr. Chairman, on the tag end of Mr. Young's request for the samples of the rugs, is that going to be legislated?

**Hon. Mr. Clement:** In fairness, I haven't actually thought of the procedure that would

be followed as to the selling of rugs. The Act will define what is a deceptive or misleading trade practice. If there is any deviation or if any of those items is caught by that definition, it will, per se, be a deceptive trade practice.

**Mr. Sargent:** Why don't you make it simple so that the consumer can measure it? He can measure a piece of rug.

**Hon. Mr. Clement:** Now there will be practices developed by sample or this sort of thing. The thing that Mr. Young mentions about samples isn't necessarily the answer in all areas.

I can think of many situations in which a person has been shown a new home, a model home. He says, "Yes, I want one just like the one I am in here." They say, "Fine, we will build it for you on whatever lot you select." But the quality—and I think this is Mr. Young's point—of the home is not the quality of the sample.

This is what Mr. Young is suggesting—that with the sample you have something with which to make a comparison. But we are not only in difficulties insofar as consumer complaints with rugs are concerned. There are many other areas of commercial activity. We are getting a lot of complaints on rugs. We get many complaints on the quality—

**Mr. Sargent:** This is intelligent but it won't be done, though?

**Hon. Mr. Clement:** Something along this line will be done. We have got to protect the consumer. Paving contractors are the same way. It is one thing to have a nice blacktop driveway but another thing if you haven't got any stone underneath it. These things are going to have to be defined.

**Mr. Sargent:** What I was going to talk about was—

**Hon. Mr. Clement:** I wonder, Mr. Sargent, if I could ask Mr. A. R. Walker to comment on carpet complaints because he has had a wealth of experience in this particular matter.

**Mr. A. R. Walker (Consumer Protection Bureau):** Mr. Chairman, Mr. Minister, in the carpet field, what Mr. Young was speaking of—this problem of samples as he recognizes—has been discussed many times with those sellers whose practices in some instances leave much to be desired. The problem was with the hundreds of types of fibre and the hundreds of types of colour and the various quality of the carpets issued, it was impossible

to give a sample to the person. We tried this on several occasions with them and they wouldn't do it.

Now, the suggestion that is made of giving a sample with the contract, that probably could be arranged but it can't be done at the time the contract is actually signed. This is the point. They do not have the samples with them, nor would they be able to carry extra samples for the homeowner or the consumer. But it could be sent after the fact, I admit.

**Mr. F. Young:** Well, they generally have samples with them. I mean it's a matter of cutting a little corner off these things. You get these at the big department stores.

**Mr. Good:** Sure, you go to Eaton's and Simpson's, buy a rug and you get it.

**Mr. A. R. Walker:** Latterly, they wouldn't even do that in some cases. At the large department stores they won't even give you a sample now, because we've tried it.

**Mr. F. Young:** Generally, when you order something from those stores you get what you order.

**Mr. A. R. Walker:** The carpet trade has received a tremendous amount of attention. I do wish to say that there have been many things that were being done that are corrected.

**Mr. Sargent:** Mr. Minister, my concern is—I'll be very brief.

**Mr. Roy:** Do you promise?

**Mr. Sargent:** Yes. Many of us will recall, we had a member in the House here from, I guess it was Fort William, and he had a trailer. He brought it down to park it here in Toronto so he could attend the Legislature with his family. The closest place he could get to hook up that trailer in a trailer lot was Trenton, Ont. He used to go home on the train every night from Queen's Park to Trenton, to his trailer in Trenton, and back the next morning—back and forth. He was a member of the Legislature and he couldn't get a place closer than the town of Trenton to locate the trailer.

My concern is the viciousness of the trailer mobile home industry in that these people who have these lots, Mr. Minister, will not allow you to have a spot on their lot unless you buy the trailer from them and then they do the financing because they have a three-pronged shot at the consumer.

I think there should be some protection for the buyer, legislation that would block the lot owner of a mobile home park from making it conditional that persons cannot rent a lot in that park unless they buy the trailer from him. That is number one. Are you with me on that?

**Hon. Mr. Clement:** Yes.

**Mr. Sargent:** I think this is a holdup and with the shortage of housing we have now, with the high price of these mobile homes and the high price of financing, it's a big racket. I would like to have some dialogue with you on this on whether you would consider legislation that would stop this high-handed robbery, as it were, in this whole area.

**Hon. Mr. Clement:** Well, this problem is not unique to trailers. You know many builders obtain control of subdivision or residential lots. The condition of their selling a lot to you is that they, in turn, construct a house on it. The profit motive, of course, is common in both of these situations.

**Mr. Sargent:** Is that bad?

**Hon. Mr. Clement:** It certainly precludes the consumer from—

**Mr. Sargent:** All right, why don't you stop that too then?

**Hon. Mr. Clement:** —using a builder of his own choice. But if you've got control of the lots and wish to make a profit from the construction of a house for me, and you're in the position of not releasing that lot except under your conditions—and I've heard a fellow say here this evening about attaching conditions. You remember who said that on charters.

You just cannot effectively, in my estimation, step into the marketplace and say—if you have control of some lots, if you've had the foresight to buy them and hopefully to build houses for purchasers on those lots—

**Mr. Sargent:** Yes, you're right, Mr. Minister, in one way. But getting a franchise from a municipality for the right to put in a mobile home park is a great score and you have to go through a lot of hanky-panky—

**Hon. Mr. Clement:** Yes, I know.

**Mr. Sargent:** —you know, the whole bit with council zoning and planning boards. So, it would seem to be that there is no

more freedom of choice anymore. It's a captive market now.

**Hon. Mr. Clement:** You may be interested, Mr. Sargent, to know that the Ministry of Treasury, Economics and Intergovernmental Affairs, I believe, have completed a study into the mobile home park. I don't think that study has been made public yet.

**Mr. B. Newman:** They have a two-volume report.

**Hon. Mr. Clement:** Is it two volumes?

**Mr. B. Newman:** Yes, two volumes on it. Right.

**Hon. Mr. Clement:** Was it tabled in the House the other day? I know you have some interest in that, Mr. Newman. I know they just recently finished it.

**Mr. B. Newman:** Yes.

**Mr. Sargent:** Are there any answers there, or what?

**Hon. Mr. Clement:** I don't know. I haven't read the study and I don't know what the answers are. I think they have looked into this problem.

**Mr. Sargent:** Are there any answers there?

**Hon. Mr. Clement:** Yes, we're taking a look at it too, over in our ministry.

**Mr. Sargent:** I see, well as long as—

**Hon. Mr. Clement:** It's a very difficult thing. I've acted for a mobile home developer who has gone through the ropes.

**Mr. Roy:** You had a big practice, eh?

**Hon. Mr. Clement:** Yes, I did.

**Mr. Roy:** My God, you've acted for—

**Hon. Mr. Clement:** I used to make more money with those kind of fellows than I did with Identiseal-type people, too, I might add. But you have to go through all kinds of jumps and hoops for zoning, rezoning, sewer, water, school, garbage pickup, opposition from people in adjoining areas—

**Mr. Sargent:** I have an application in now.

**Hon. Mr. Clement:** —who feel their property is going to depreciate. It's a very, very sensitive type of activity.

There have been very big developments down in Michigan and Illinois in mobile

park homes, much more advanced in that area of activity than we are here in this province.

**Mr. Roy:** As in Canada?

**Mr. Sargent:** I can think of no more important move you could make because of the movement toward that type of housing; that you do something positive immediately on this.

**Hon. Mr. Clement:** We're looking at the TEIGA report. I haven't actually seen it. I saw them piled in the House. We're very interested in it. We're interested in the quality of home construction too. We hope in the not too distant future to introduce legislation as to the quality of home construction, because that's an area of complaint that seems to be pretty high on our list.

**Mr. Sargent:** A question: You make it conditional that you have so much parkland with the development?

**Hon. Mr. Clement:** Oh, yes.

**Mr. Sargent:** Right! Why not make it conditional that you have so many lots, 25 per cent for instance, which don't have to have the owner's trailer on them? Do you follow me?

**Hon. Mr. Clement:** They have a captive market.

**Mr. Sargent:** Yes, well if you can make it, say, 25 per cent would be free and open to the—

**Hon. Mr. Clement:** It's a pretty complex problem.

**Mr. Lawlor:** You agree with free enterprise.

**Mr. B. Newman:** They are not even allowed to sell mobile homes—

**Hon. Mr. Clement:** Except through the broker.

**Mr. B. Newman:** So they're so captive they're really so-called slaves in that development. If they do sell it they've got to sell it to the owner of the park and at a real depreciated price. I don't think we should put up with that type of—

**Mr. Good:** You mean they can't pick it up and take it away?

**Mr. B. Newman:** Yes, they can take it away. Surely, they can take it away.



**Mr. Sargent:** Where are they going to put it?

**Mr. B. Newman:** But if they have a purchaser for the mobile unit, they can't sell it to that purchaser.

**Hon. Mr. Clement:** Except through the broker.

**Mr. B. Newman:** Except through the owner of the park.

**Hon. Mr. Clement:** The owner always justified his position by saying he is able to maintain the quality of the development, because some of these places in Florida, Illinois and Michigan really are quite beautiful. They have a whole community centre built in there, a hall and pool, tennis courts, and this sort of thing in an attempt to maintain a high-quality type of residential area for the mobile park owner. They have all kinds of bylaws as to skirting around the trailer. Many of us have the mental image of the old trailer parks we used to see 25 or 30 years ago that were really very much of an eyesore on the municipal scene.

**Mr. B. Newman:** Well, is there nothing that your department can do to protect the purchaser of one of these units so that he can dispose of the unit when he so wishes?

**Hon. Mr. Clement:** Yes, I think eventually we can consider going into the sort of programme of having these mobile park owners register as brokers and get into a licensing system; and then set the terms of the licensing and the sale and resale. Yes, I think we have justification in that.

**Mr. B. Newman:** Do you plan on entering that field then, Mr. Minister?

**Hon. Mr. Clement:** I am not planning on entering that field until I have an opportunity to assimilate the report that the TEIGA people prepared on mobile park homes.

**Mr. B. Newman:** How long would it take you then before you could introduce legislation to overcome the problems that we have?

**Hon. Mr. Clement:** If we moved quickly on it, if it were top in our priorities I think we could introduce legislation this fall to that effect, Mr. Newman. But again it is a matter of priorities. This is the sort of thing you run into, you see—on the one hand let's regulate and on the other let's be free. There are a lot of problems that have to be considered.

**Mr. B. Newman:** Now just prior to the comments here, Mr. Minister, you made mention about the quality of homes. I wanted to bring to your attention the home repair field. Mr. Minister, I was making comments on the home repair field. You can recall that I corresponded with you on that and likewise that I asked you about the licensing of the home repairman.

Is there no way that we can ensure that the individual who enters into an agreement with some contractor will get what he had originally intended, or what he had paid for? The shoddy workmanship in some of this is absolutely unbelievable. In my own community the newspaper has carried article after article illustrating poor workmanship, deceptive practices and everything of the sort, yet no one seems to be able to get satisfaction from the home repairman.

In fact, one of the cases involved an individual who paid \$3,838 to a contractor to build cement walls and a floor. Now you would say, why did he pay this money to the individual? Well, the builder jacked up the home and then came after the occupant, saying: "I can't carry on because I don't have enough funds." So the man in desperation kept advancing him money to finish the job and when he did finish the job, he found that the city inspectors would not pass it.

**Hon. Mr. Clement:** This may be one of those areas—and this is one of the things we are looking into right now—that may be caught by our Deceptive Practices or Unfair Trade Practices Act. You see, it is like: "Let's pass a law and abolish cancer." You get into a registration programme and you make it the law of this land that every home repairman must register or be licensed or something of this nature. All right.

Then there is the fellow who is the fireman who goes out four or five days a month and does little home repairs. But he doesn't feel that he should register because he is only doing it part time. There is the fellow that doesn't do it for anybody except the members of his family, so he doesn't feel he should have to register.

There is no question in identifying the large contractors who are carrying on residential construction but these, basically, are not the people who are creating the problem. It is the small itinerant fellow who is here today and gone tomorrow and is often living from hand to mouth.

Now, with the greatest of respect, I suspect that there is a bit of an onus on a man who is going to have repairs done to his house

to inquire into the background of the repairman. He must find out who he has done work for, talk to those people and see if they were satisfied. Did they run into any difficulties? So often I find that the people who have been doing the repairs—and I can think of one case where the workman just got out of the penitentiary less than a month before. He gave a most attractive offer in order to induce the homeowner to utilize his services. When he got the deposit for the job and fled, the home owner then screamed there should be a law to protect him. What he is saying is there should be a law to protect him against himself.

I am not going to do business with anybody unless I know their reputation in the community, unless I know the quality of their workmanship and their general honesty. So we can go and regulate, we can go and license these people, but there would be a good number of them who won't register for one reason or another. There will be those who are truly in doubt as to whether they are required to register, there will be those who are crooked and who will not register.

They will still attract customers because in us all there seems to be a bit of a weak spot, wherein we think we are getting a good deal. Then when the good deal backfires, we run to our member and our alderman and our mayor and say: "Save me because I made a bad deal. There must be a government fund that reimburses me."

It is a very complex problem and I don't know how far you can go unless we get into a civilization where we say: "You cannot enter into any contract until one of the half million government lawyers studies that contract and tells you that it is okay to enter into it." I hope that none of us here is ever alive when that type of civilization is devised.

**Mr. B. Newman:** Mr. Minister, the Ministry of Transportation and Communications requires contractors who are going to do work for them to pre-qualify. In other words, they put in certain stipulations. Then maybe should not that same type of an approach be used with this type of contractor?

**Hon. Mr. Clement:** Sure. I think any contractor who is going to do work for me is going to qualify. He is going to qualify by showing me some of the work he has done or some of the people that he has done work for. I am going to check with the Better Business Bureau. I have had clients come in to tell me they don't know where to get in touch with their contractor. They haven't

even got a telephone number. That is how little they know about the man. He took \$400 and is going to repoint the chimney. He took \$400 and gave them a receipt and they don't know where he is. Never heard of him before. And so there ought to be a law.

**Mr. B. Newman:** But would not, Mr. Minister, licensing, either on the provincial or the municipal level, at least be a part of an answer to prevent some of this type of practice?

**Hon. Mr. Clement:** If you license him and he is in breach of that licensing legislation, then what do you do? You take the man if he breaches it and you take away his licence. If you can convince me that he will never go into the home repair field again because he doesn't have a licence, then I will undertake to have that legislation before the House before we rise. That type of individual couldn't care less.

We have got people on the roads in this province who don't even have insurance. They don't even have a Motor Vehicle Accident Claims Fund certificate. They couldn't care less. The law says you have got to have insurance. But they don't have it. They will pay a penalty, they will go to jail or be fined or something like that, but that doesn't help you if you get knocked over by one of them.

**Mr. B. Newman:** How do we help the man who gets trapped through home repair?

**Mr. Roy:** Why doesn't he go to court?

**Hon. Mr. Clement:** The man always has the remedy of the court. That is all right for me to say that, but if the man who is the builder is a deadbeat, what good is a judgement for \$3,800 against a man who has no assets? It doesn't mean anything. Unless we ever consider legislating a home builders' assigned risk or fund, whereby the government says to the public at large: "If you make a bad deal with a builder, and get stuck, we'll pay you back because we feel sorry for you"—unless you have that type of thing, which is facetious, the person is stuck.

It is like the guy who marries the unfaithful bride. He says: "Well, why did it happen to me? There ought to be a law." Well, there is, there is an old book they wrote about it but it doesn't help the poor guy.

**Mr. B. Newman:** Well, Mr. Minister, you know if I had answers I wouldn't bring up these questions to you.



**Hon. Mr. Clement:** I wish I had all the answers. I can sure see a lot of the problems.

**Mr. B. Newman:** I wanted to bring up the other problem, Mr. Minister, and that is on various types of appliances, what is wrong with requiring that in the advertising the company selling the product list the model number? Consumers' bulletins do list certain-type model numbers as being best buys. How can the average consumer go into the market—he is buying, let's say, a Panasonic sound system—but there are 50 different numbers for Panasonic sound systems? He sees the ad in the paper or in a flyer that comes to the home, Panasonic sound system at \$250. Yet we know darned well that to buy probably that type of a sound system—

**Hon. Mr. Clement:** He knows it too, by the way.

**Mr. B. Newman:** —the kind that he has in mind would cost \$400 or \$500 or maybe even \$1,000. What is wrong with requiring the advertiser to put down in his ad, when he is selling the product, or advertising the product, that this is model number 7264, or whatever it might be?

**Hon. Mr. Clement:** If the federal people find that under the Combines Investigations Act that the ad deceives, or is intended to deceive, they will prosecute the vendor of that Panasonic sound system.

**Mr. B. Newman:** Well, Mr. Minister, in the House I referred to several ads in the local paper for colour television sets being sold at an unusually low price, and I can recall that you people went after them and got the supplier back into the—

**Hon. Mr. Clement:** Well, we'll stick our elbows in and try to get some satisfaction for the person who has been victimized by this. But if the vendor tells us to go to blazes, in many instances we have no legislative machinery to follow through. We're bluffing him.

**Mr. B. Newman:** Yes.

**Hon. Mr. Clement:** In fairness to many businesses, if a mistake was made, they are embarrassed by it and want to make restitution and to placate the complainant. Unfortunately, not all our business community is motivated so genuinely.

**Mr. B. Newman:** You will recall the one case that I brought to your attention, where for three days in a row they advertised in a

misleading fashion, because they did not have the product available.

Is there nothing we can do to stop individuals from advertising when they don't have the product—the come-on type of advertising?

**Hon. Mr. Clement:** Very often I have seen ads where they say they have one only or three only of such-and-such a product, presumably in order not to mislead the public. I think we can take under consideration in our consumer protection branch, that they must identify the product by number. I know, having talked to many people going to buy a fairly major appliance, that they'll go into the appliance store, get the model number and compare the price with the price in Consumer Reports or a catalogue relating to a particular product in an effort to see if they are in fact receiving a real bargain.

But part of the key—and you put your finger on it a few minutes ago—relates to an article on sale for \$250 but which we all know has a realistic price of \$500. At that point, I think there should be some notice or response in the eyes of the potential consumer; he should be given notice that he had best watch this, because this is most unusual.

But if he goes ahead like a bull in a china shop to get there before they run out of them, makes a bad buy and then expects government to bail him out of it, we are going to have a programme in this province that is going to make the health delivery services look like a minor misdemeanour, because people are going to say, "It doesn't matter what I sign. I know Queen's Park is going to send me a cheque for being stupid."

**Mr. B. Newman:** Well, what about the year model? Should that not be displayed and included in the advertising? Should that not be displayed and included in the advertising? If an individual buys an air conditioner today, he doesn't know whether he's buying a 1970 model or a 1973 model.

**Hon. Mr. Clement:** That's a very good point.

**Mr. B. Newman:** Well, should that not also be on display on the article when they are advertising it in the store? Or should it not even be included in the contract? The individual doesn't know.

**Hon. Mr. Clement:** Yes, it may be that it should be in the contract. But it would seem to me, while we are so disclosure-conscious, that it should be available long before the man gets to the contract-signing stage.



**Mr. B. Newman:** You know, when he buys a new article, he assumes automatically that it's a 1973 model.

**Hon. Mr. Clement:** I've known people who thought they were buying a 1967 car, but it was a 1965. Really, it's difficult to tell unless you know something about automobiles.

**Mr. B. Newman:** Well, if I am not mistaken, Datsun was accused of selling 1972s as 1973s—maybe not in Canada, but in the United States.

**Hon. Mr. Clement:** That's a good point. We'll take a look at that.

**Mr. B. Newman:** I also want to ask of you, Mr. Minister, if you know about Steed automotive products? Is this not a pyramid scheme?

**Hon. Mr. Clement:** Yes, we think it's a pyramid scheme.

**Mr. B. Newman:** And have you undertaken any prosecutions?

**Hon. Mr. Clement:** Well, I am going to call on Mr. Paul Brown, the registrar, who is here with us tonight, to come forward. I had the opportunity of reading a report he sent to me some weeks ago, and Steed Automotive is one of the industries he touched upon in his report.

Would you come over to the microphone, Mr. Brown?

**Mr. B. Newman:** These products have been out about a year, but they seem to be catching hold at this time in my community.

**Mr. P. Brown (Registrar, Pyramid Schemes):** What's the name?

**Hon. Mr. Clement:** Steed Automotive.

**Mr. B. Newman:** Steed automotive products. They sell some type of additives.

**Hon. Mr. Clement:** Although this man is not an Egyptian, he is the registrar of the Pyramid Sales Act. We call him "Pharaoh" Brown. Mr. Brown, would you answer Mr. Newman's inquiry as to Steed Automotive?

**Mr. Brown:** Yes, it's my opinion that Steed is using a pyramid sales scheme to distribute its products, and we have received some complaints from people.

**Mr. B. Newman:** And what type of products do they merchandise?

**Mr. Brown:** Basically automobile additives for fuel, transmissions or radiators, I think.

**Mr. Roy:** Briefly, how do they—

**Mr. B. Newman:** Their modus operandi.

**Mr. Roy:** Yes, their—

**Mr. B. Newman:** Modus operandi.

**Mr. Roy:** It's a legal term which I don't understand.

**Mr. B. Newman:** MO.

**Mr. Lawlor:** MO?

**Mr. Brown:** MO?

**Mr. B. Newman:** I'll get my lawyers' papers yet.

**Mr. Brown:** They have three sales levels in the company. I think at the first one you invest about \$170 to buy products, training and a demonstration kit. At the second level you spend about \$2,500 to buy more products and more training. And we're unsure of the third level right now—it may have been dropped.

**Mr. Roy:** You spend \$5,000 to get more products and more training.

Interjection by an hon. member.

**Mr. Brown:** There is some similarity, yes.

**Mr. B. Newman:** Do all of these pyramid schemes follow the same pattern?

**Mr. Brown:** It's basically similar, yes.

**Mr. B. Newman:** Is there no way that your department could, by press release or advertisement, inform citizens in communities to be careful of this type of scheme by naming, say, Steed Automotive? You will also recall the Buycard scheme not long along, also Koscot Interplanetary—

**Mr. Lawlor:** I'm sorry to interject, but haven't you asked for a prospectus?

**Mr. Brown:** Yes, we have. We are in the process of getting an acceptable prospectus, I hope, from Steed.

**Mr. Lawlor:** You have.

**Mr. Brown:** And to answer Mr. Newman's question, we do make an effort to warn the public. I have appeared on radio or television shows in specific areas where it has been a problem. For instance, in your area, Windsor, I was on radio discussing

pyramid selling in general and Steed in particular. I keep contact with better business bureaus and chambers of commerce throughout the province so that if people do phone in, if there isn't a local government office, at least they can check with somebody.

**Mr. B. Newman:** You don't actually go into newspaper advertising per se, do you?

**Mr. Brown:** No.

**Mr. B. Newman:** Is there any value in advertising some of these pyramidal schemes through the press?

**Mr. Brown:** Not in my opinion, as far as the cost is concerned.

**Hon. Mr. Clement:** We had some discussions last Thursday night in the estimates committee. Mr. Newman asked about some of the dangers of naming the suppliers of services or product about which we have received a number of complaints.

Mr. Brown, as a matter of practice, if he perceives activity in a particular area relating to a certain type of product, he works very closely with the municipal police authorities in that area and the Ontario Provincial Police or any fraud squad, as well as carrying out his own investigations.

Many of these people feel that they are not pyramidal sellers, and therefore they need not register. And if Mr. Brown, as a result of his investigation, comes to the conclusion that they may be in breach of the Act, he notifies them immediately about the requirements of the Act and requests them to register.

I also understand that Mr. Brown liaises with Mr. Powell of the Attorney General's office on these matters to obtain a legal opinion as soon as possible as to whether they are in breach of the Act.

**Mr. B. Newman:** What about the Holiday Magic people? I notice they are folding up in the United States.

**Mr. Brown:** Not from the information I have; I wouldn't say they are folding up in the United States. They are under prosecution by the Federal Trade Commission, but I wouldn't say they are folding—

**Mr. B. Newman:** Well—

**Mr. Brown:** Koscot is folding.

**Mr. B. Newman:** No, I was reading it in the Detroit papers over the weekend that Holiday Magic is folding up. The fellow

was 43 years of age, doesn't know where he is going to be in two years; in fact, he is afraid he is going to be behind bars.

**Mr. Lawlor:** He is going to be 45.

**Mr. A. Carruthers (Durham):** Go to the head of the class, Pat.

**Hon. Mr. Clement:** He did it right in his head, too.

**An hon. member:** That's because of his other—

**Mr. B. Newman:** You don't know anything more about Holiday Magic then, do you, Mr. Brown?

**Mr. Brown:** Well, in my opinion, they are conducting a pyramid scheme in Ontario.

**Mr. B. Newman:** Have you attempted to stop them at all?

**Mr. Brown:** We have notified them; we are getting a prospectus from them.

**Mr. Lawlor:** You got some money back for a constituent of mine last year, about \$700.

**Mr. Brown:** Good.

**Mr. Lawlor:** It was the best thing you ever did.

**Mr. Brown:** We get a fair amount of money back.

**An hon. member:** They always do.

**Hon. Mr. Clement:** I understand that—

**Mr. B. Newman:** No, I have two small items—

**Mr. Chairman:** You snuck under the wire, you see, because I had a waiting list and you got into this act by filling in.

**Mr. B. Newman:** Well, I was the last one actually—

**Mr. Chairman:** No, but the gentlemen indicated that they wanted to speak—I have them down here on the list—but you snuck in under the wire. You have taken up quite a bit of time, and Mr. Roy is hot to trot here—

**Mr. B. Newman:** Well, will you let me on immediately after him, Mr. Chairman?

**Mr. Chairman:** No, I have a—

**Mr. F. Drea (Scarborough Centre):** Mr. Minister, I'd like to raise a point about what Mr. Newman was asking. One of the difficulties—

**Mr. Roy:** Whose turn is it?

**Mr. Drea:** No, no. It's just on the advertising. I would like to give you a bit of expert evidence.

**Mr. Roy:** Geez, I'd say you are being very presumptuous now.

**Mr. Drea:** I think that I can understand—well, if I needed a lawyer, it wouldn't be you, so just cool it, will you?

**Mr. Roy:** No, I say you're being very presumptuous by saying you're an expert.

**Mr. Drea:** Mr. Newman raised the point, which is, essentially, why doesn't the ministry or the media, or indeed a number of professions, warn people about this? Mr. Minister, I had a good deal of experience in this. The problem with pyramid schemes or with any kind of a get-rich-quick scheme is that you literally cannot deter people when the scheme is hot. I know that I used to try to. As a matter of fact the publication that I worked for went to great risks, because there is liability involved in this. This was not in advertising columns either—in direct news. It was difficult to try and tell people just the simple things about being careful—if you put \$100 into something, you can't expect to get back \$150 in the morning, and so on and so forth.

You would be surprised at the letters and abuse you get when you try to deter people when these schemes are hot, as I think anybody who has ever tried to deter a person must know—I'm sure there are solicitors or bank managers and so on and so forth who caution clients. But then there comes a cooling off point in this, where the money isn't rolling in, or the cream has been skimmed off, and at this point everybody is wanting to know why you didn't warn them.

I would suggest that the least efficient way of warning people is to take out paid advertisements. I think that our friends in the federal jurisdiction have found this out in certain of their programmes. They've changed their approach to the public because of their experience. Coming from where I do, I hate to admit it, but one of the difficulties with a paid advertisement is people turn off in print. If they see that it is an advertisement, then they are not quite as interested as they are in the news.

So while I agree with my friend, Mr. Newman, that there should be a caution and a warning and a prevention if possible, I'm suggesting to you that there is no easy way

through a simple advertisement or the mere spending of funds or writing a brochure or anything like that, because something strange comes over people when they get into these things.

**Hon. Mr. Clement:** We invoked the Pyramidic Sales Act on the Dare to be Great schemers in many instances who were going to Detroit. My ministry received a number of complaints, particularly from the Windsor area, from people who couldn't get on the bus—the free transportation that was providing rides to the Dare to be Great meeting in Detroit. We were asked what were we going to do to see that this thing was going to be cleared up.

**Mr. Drea:** You also had the one that was going from London to Buffalo and they complained to the Minister of Transportation about a snowstorm blocking them and they had to stay on the bus all night. They weren't mad about staying on the bus all night—they were mad about not getting to Buffalo in time to get in on the early part of the game.

**Mr. B. Newman:** I can recall reading comments in the Detroit papers how people who were being taken by the pyramidic schemes attended meetings and applauded those who were taking them.

**Hon. Mr. Clement:** Did you read the Globe and Mail about the creditors of Koscot Interplanetary? Some 200 people turned up and it was described by the Globe and Mail as like a class reunion. People were quite jubilant and very critical of creditors of the company pushing it into bankruptcy.

**Mr. B. Newman:** Mr. Minister, how about bottled water?

**Mr. Chairman:** Mr. Newman, I think you're out of order.

**Mr. B. Newman:** I'll drink to that.

**Mr. Chairman:** Go ahead, Mr. Roy. We'll come back to you again Mr. Newman, before Mr. Roy blows a fuse here, please.

**Mr. Roy:** I want to make one comment in relation to pyramid sales. The best way to deter them as far as I'm concerned is to prosecute them as soon as possible. Never mind advertisements about whether what they're doing is offensive or something. It seems to me that the best way to go about it is to—now that you have legislation and now that we are aware of that problem—prosecute any scheme as soon as possible.



**Hon. Mr. Clement:** I understand from the report which I received from Mr. Brown that in certain instances where he has indicated an interest in moving in that direction and prosecuting under the Pyramid Sales Act, the Crown attorney and/or the police in that particular area have said that they prefer to proceed with fraud charges under the Criminal Code. In some instances, they have. They've done this down in Quebec too. I think Holiday Figure Magic was prosecuted.

**Mr. Roy:** It is not that clear under the code. It is questionable whether you could really prove it under the code. You are better off with legislation which is clear, right on. I haven't read your legislation here—

**Hon. Mr. Clement:** Some law enforcement officers in this Metro area right here have come to the conclusion—they reversed themselves in the last year—the more they've had—

**Mr. Roy:** Is there jurisprudence on that?

**Hon. Mr. Clement:** Yes. They've taken a look at it in light of experiences in other areas and have come to the conclusion that they can move under the Criminal Code.

**Mr. Roy:** Could be.

If I might raise just one point in relation to real estate and business brokers. I've had a lot of complaints, and I think they are valid, about consumers who are presented forms by real estate salesmen in relation to buying and selling property. It gets to the question of a contract on the commission. The point to be answered is, is the commission payable upon the sale or upon obtaining a valid offer or purchaser?

Real estate people have different forms—sometimes they type their own forms. It would seem to me that in this field—it's a very active field these days, the real estate field—the one principle that your department should strive to get the real estate people to agree on, is first of all, that there be no commission paid for obtaining just an offer. That's the first thing. There should be a sale.

The second thing is that there be a standard form right across the province which clearly outlines this. Because every second form that you read is really questionable. Does it apply? Do you have to pay the commission in relation to just obtaining a valid—or at least a purchaser who is willing and able to buy—and it is questionable what that means—or just obtaining an offer? Or is the commission payable on sale?

**Hon. Mr. Clement:** The popular one that has been used in my area for a number of years, says "in consideration for having procured this offer." Of course we always want to demonstrate how erudite we are to our client who comes in. Before he signs it we take that out and say "in consideration or conditional upon completion of the purchase and sale therein." I've always adopted the personal view that that unilateral change didn't mean a thing unless the realtor initialed it and accepted that alteration. While that portion of the agreement down at the tail end looks to be between the vendor and purchaser, it really is between the vendor and the agent—the realtor involved.

**Mr. Roy:** Yes.

**Hon. Mr. Clement:** And also acting from a purchaser's point of view, I'm very interested in that, or used to be. In the event that the deal didn't close I didn't want the vendor being stuck for a commission and in turn looking to my man for reimbursement. Rather than prescribe the form of offer it might be just as easy to consider legislating it. There is jurisprudence on it.

**Mr. Roy:** Yes.

**Hon. Mr. Clement:** Cases as I recall have gone—

**Mr. Roy:** Yes, it might be easier.

**Hon. Mr. Clement:** —both ways.

**Mr. Roy:** There are, and it is very difficult to determine that. Very often your vendor—especially your vendor—

**Hon. Mr. Clement:** The innocent party is often stuck on it, because maybe the purchaser who refuses to close for—

**Mr. Roy:** That's right.

**Hon. Mr. Clement:** —some whimsical reason and the realtor makes a demand on the vendor for his commission for having procured the offer. Thank goodness, as a matter of practice in my area, the realtors seem to have a code of ethics about it and will not demand—

**Mr. F. Laughren (Nickel Belt):** Like the others.

**Hon. Mr. Clement:** They won't make the demand on the vendor if the closing or the failure to close is not his fault.

**Mr. Roy:** I've seen a number of actions on that in Ottawa, and the law goes both ways.

I think maybe your suggestion is the best one if you could possibly legislate that, because your vendor doesn't usually very often get to his lawyer before he signs one of these.

**Hon. Mr. Clement:** I have Mr. John Cox here with us—the registrar under the Real Estate Business Brokers Act. He may have what I would think might be some pertinent comments on this question.

**Mr. J. P. Cox** (Real Estate and Business Brokers): As a matter of interest, most of what are called standard forms, are drawn up by various real estate board solicitors. They are the ones who say “a commission is payable on procuring an acceptable offer or upon the date set for closing,” and so on. We get into another problem which was mentioned a minute ago: the purchaser signs an offer, the vendor accepts the offer, but he's in effect signing two contracts. He's making a contract with the broker at the same time. Frankly I don't like it. A great number of solicitors I know will not buy this standard commission form. They stroke it out and say “commission is payable on closing of the deal” and nobody can argue with it.

There are some brokers who have gone to court and sued for their commission on the date set for closing. They have sued on providing an acceptable offer. In my office we say “Try it on, Charlie,” he commission or the deposit can only be disbursed when the terms of the trust have been fulfilled. We take this to mean when the deal is closed—when there's been a release signed by the purchaser and the vendor or there is a court order.

A great number of brokers take the attitude that the deposit is there to cover their commission. We say, “Not so.” It is there as an evidence of good faith on the part of the purchaser. We require a real estate broker to have a real estate trust account, because the minute a deposit is made, there is the question as to who is the rightful owner. There may be a conditional offer, conditional on the purchaser arranging a suitable mortgage. He may find a better house for less money the next day, so he doesn't fulfil the condition. The vendor's house has been off the market for perhaps 15 days. Perhaps he could have sold it and may have a claim on the deposit. Therefore, we say a release by both parties, and failing that, a court order.

**Mr. Lawlor:** How come the vendor is the one at fault?

**Mr. Cox:** The same thing happens. The vendor could get a better offer after he has accepted one and he won't close.

**Mr. Lawlor:** Could you order a real estate firm holding that money to return the deposit made?

**Mr. Cox:** Not at all. No, we don't say that at all, sir.

**Mr. Lawlor:** You leave it up to the courts?

**Mr. Cox:** We say the deposit will be disbursed according to the terms of the trust. When there is a closed deal, there is an agreement by two parties—failing that a court order.

**Mr. Riddell:** What about the practice where the realtor comes in for his commission after the property goes out of listing? I think this is wrong if he cannot sell that piece of property while it is in the listing. Because he may have brought a potential purchaser out, then he still comes in for his commission if that property happens to be sold—what is it?—within a month or three months.

**Hon. Mr. Clement:** So many days. That is a contractual matter between the vendor and the realtor, because if he looks at his listing agreement with the realtor he has agreed to that very situation, that if the realtor introduces to the property someone who eventually buys it within a 60- or 90-day period, he expressly agrees to reimburse the realtor for the amount of the commission.

**Mr. Riddell:** Yes, but I will tell you what is going on. The realtor may not have brought a potential buyer out to the place when the time for it to go out of listing has reached that particular date. He has heard of somebody who has been interested in it; so he immediately rushes out to this chap. Because he has talked to him about this place, it still entitles him to come in for his commission, though the fellow had no intention of ever approaching the realtor. Now this was done, and I have personally experienced it myself.

**Hon. Mr. Clement:** I am certain that this sort of thing is done by some of those people selling real estate who don't carry on their calling on a very high plane. This is a matter of determination by the court and has been the subject matter of a number of actions. I don't know how many annually, but it is a very common type of action.

There is also the vendor who doesn't show good faith. The realtor introduces someone who is interested in the property and the



vendor gets back to that person on the side and says, "Let's wait until the listing expires and I can take and split the commission with you. I will end up with more money and you will pay less." At this particular point, my inclination would be that it is a matter of evidence and a matter to be determined by the courts. If we legislate that it just has to be during the term of the listing and that is it, then you may have vendors who are not showing good faith and using this very device in order to escape payment of commission.

**Mr. Riddell:** Perhaps this matter could be rectified then. If the realtor brings the person out and shows him the property, then he may be entitled to his commission. But he should not be if the person was never brought out to the property by the realtor, but bought it just due to the fact that the realtor rushed in, because he had heard that this fellow might be interested and he went and he talked to him. He didn't show him the property, but owing to the fact that he simply discussed the property with the chap he still comes in for his commission. I think this is wrong.

**Hon. Mr. Clement:** Mr. Riddell, the inspection of the property by the prospective purchaser isn't necessarily the key, because the prospective purchaser may be extremely knowledgeable about the property. He may have been there on many dozens of occasions in the past and, in fact, would waive an inspection of the property. He says, "I know it." Particularly when you're dealing with vacant land.

It would seem to me, that the place where this sort of dispute should be dealt with is in the courtroom, where the person can be cross-examined, where he's subject to all those things that happen in litigation, and he's put under oath. Then it's up to the plaintiff in that action, presumably the realtor, to demonstrate to the court on the balance of probabilities that he is responsible for that man buying the property. Very often, the fact that the realtor has to go to court, if he has been guilty of a spurious practice, intimidates him and he doesn't go because he knows in his own mind he's not entitled to a commission and this just precludes the man from going to court.

**Mr. Roy:** Can we expect then, Mr. Minister, legislation in this field? I see you leaning that way. Really I feel because of the jurisprudence on that, that your department

should be in a position, once and for all—well, you can't once and for all, because there will always be interpretation of legislation—but, basically to settle this question at least to some degree. In my opinion, in this country I really don't see any validity for paying someone a sometimes very substantial commission if the property is not sold, and if there's no default on the part of the vendor. I mean, nothing on his part.

**Hon. Mr. Clement:** I would like to consider that. I feel strongly enough about it that it's worthy of consideration. It's something that we're all very aware of who've been involved in real-estate practices. It's always been a frightening thing to me when I see that in an offer. I'll take a look at that.

**Mr. Roy:** If I might just deal with one further problem. You must have had some complaints about this and it's in relation to lotteries. As you know, Quebec have their Loto Quebec and various other lotteries, which—

**Hon. Mr. Clement:** I wonder if I could ask you if we could withhold that until we get into entertainment? We've got horse-racing, theatres and lotteries all under the one cluster.

**Mr. Roy:** Oh, I see. Very well. If I might just raise collection agencies? That's in there. I just wanted to ask one question in relation to collection agencies. I realize that they're in a field where sometimes they have to use special means where collection is difficult. But on the other hand I feel that they do, in fact, use a form of intimidation which is exaggerated. I'm talking about collection agencies who send you correspondence to no end. I don't know what you can do about that, but I'm talking especially about collection agencies which will call at all hours of the night or morning and really intimidate people, in fact, threaten people over the phone.

I wonder whether you have any legislation or are contemplating any legislation in this field. Basically these types of people phoning someone who is knowledgeable won't affect him, but it is usually the poor, the uneducated, who are the prey, who are people who are being abused by these collection agencies and I am concerned about their form of intimidation at times.

I notice there is a Collection Agency Act, and I must admit I am not familiar with it, but is there anything in this Act or anything contemplated? There is no sensible reason for calling someone at 2 o'clock in the morning and intimidating him over the phone.



**Hon. Mr. Clement:** I believe there are certain practices prohibited in that Act, a breach of which leads to suspension and/or prosecution. Mr. Simone, did you hear the questions posed by Mr. Roy relating to collection agencies? I know this is a common area of complaint, by the way.

**Mr. V. J. Simone** (Collection Agencies, Mortgage Brokers, Bailiffs): I think I heard enough of it. There is nothing specifically in the Act that governs ethics. Under the old Act we used to have a section which said that if they didn't behave in the public interest we could move against them, but I know of no instance where a collection agency phones a debtor after 9 o'clock in the evening. This is a fallacy.

**Mr. Roy:** I would like to take you up on that. I have had complaints about that and I am sure other members have had complaints about that as well, where collection agencies are—

**Mr. Drea:** You are talking about an agency?

**Mr. Roy:** Well, an agent for—

**Mr. Drea:** The problem is that an agency subcontracts it out to individuals and then the fun starts.

**Mr. Simone:** In any case, if we get a complaint to that effect we certainly go after the agency and demand an explanation. Invariably they deny it, and how can you prove it? Now what we do is try to keep a record of those complaints and if we get enough of a similar nature we will cancel the collector's licence, subject to appeal of course.

**Mr. Roy:** Just a point raised by my colleague, if these collection agencies in fact sublet to somebody else, these fellows should be held accountable in my opinion for the conduct of some of these fellows.

**Hon. Mr. Clement:** The agency is in effect held accountable because if their sub-agent's conduct is such that a number of complaints come in, a pattern is established, and as the registrar has said, the main agency will lose its licence.

**Mr. Roy:** Are you saying that you have not received any degree of complaint in relation to any one agency on that point?

**Mr. Simone:** No, it used to be a favourite complaint that we could never prove, because collectors don't like to work after 9 o'clock. In these days they have to be paid overtime. Incidentally there was some mention of sub-

contractors. I know of no agency that subcontracts its collections. What they might do is forward it from Toronto to Brantford, but I don't know of an agency that subcontracts per se.

But certainly if we get complaints that the public is being harassed in any way whatsoever—abusive language, idle threats, anything of that sort—we look into it right away. As a matter of fact, if it is urgent enough we will get on the phone and act before we even get a written complaint. We often get a complaint from a woman who says she has been phoned every hour on the hour. It doesn't pay a collection agency to phone every hour on the hour. The minute a debtor gets a dunning letter or a dunning phone call, he accuses the collection agency of harassing him.

**Mr. Riddell:** I think you have to be an MPP to get complaints.

**Mr. Roy:** Thank you, Mr. Chairman.

**Mr. Chairman:** Mr. Laughren?

**Hon. Mr. Clement:** I was just going to say if you have any complaints that come in of that nature, for heaven's sake send them over and let us have an opportunity to look into them and track them down while they are still hot. That is the only way we can react, if we hear about these complaints.

**Mr. Chairman:** Mr. Laughren.

**Mr. Laughren:** Thank you, Mr. Chairman. I would like to raise a few questions dealing with the real estate field.

**Hon. Mr. Clement:** You take me right by surprise.

**Mr. Laughren:** Now we think our problems are over since Ross Shouldice moved from the Sudbury area to the St. Catharines area, so we are not anticipating any further problems from him, but I am sure there will be others.

One of the things—as a matter of fact it goes back as to how it all started really with him—was the way that the homes in subdivisions can be advertised, either through, as you mentioned earlier, the display models that don't represent the house that people buy, or secondly, by the razzmatazz that surrounds the promotion of the subdivision and that would put Barnum and Bailey to shame. I'm thinking of free helicopter tours and air-plane rides.

It's one thing to mislead people in persuading them to buy a pen that writes under

water, but a house is another thing and the kind of investment that you've got involved in it. I'm sure you will agree.

I am wondering, first of all, if you have any kind of powers there, or are anticipating anything there to bring those kind of people into line. It's too important an area to have any kind of showbiz approach to promoting a subdivision. I think it's wrong. I think you witnessed it with Whiterock Estates as well; this kind of owning a piece of Canada approach, and so forth.

**Hon. Mr. Clement:** Earlier, this evening, I don't know if you were in the room while we were discussing it, Mr. Laughren, but we're very close to introducing a Fair Trade Practices Act. This is the type of thing that would be covered, or contemplated by this Act. In many areas, boards of real estate, and the associations themselves have developed a code of ethics, and they do a pretty fair job of self-policing.

**Mr. Laughren:** Well, the realtors say that too, but everybody isn't a realtor.

**Hon. Mr. Clement:** That's right. There are many instances, and we're both talking I think of a common instance, where fortunately this did not occur. Maybe Mr. Cox might like to make comment as to any complaints he may have received as to exceeding the bounds of puffing and getting into completely misleading or deceptive devices to attract the public to real estate purchases.

**Mr. Cox:** We have two sections in the Real Estate and Business Brokers Act, one of which says:

That any person advertising must clearly indicate that he is the person advertising and that he is a broker. Any salesman must clearly indicate that he is an employee of the broker.

There's a further section, section 60, which deals with misleading, false, deceptive advertising which we can order him to stop. But we have to tell him his rights under section 9, which gives him the right to go to the commercial registration appeal tribunal for a hearing.

So, if we tell the man to stop it he has 15 days to appeal for a hearing. If he doesn't appeal then our order takes effect. If he appeals, then we have to produce the evidence to prove that he has been doing false, misleading or deceptive advertising and the tribunal makes its decision as to whether or not he, in effect, ceases and desists.

**Hon. Mr. Clement:** A number of people, over the years, have been induced to take free trips outside this jurisdiction at the expense of a developer to points and places unknown and view real estate. They are subjected to quite a programme of almost harassment to intimidate them or encourage them to purchase in that particular area. Again, many of them are victims of their own judgement. It's a trip to the Bahamas for nothing. Well, you don't get much in this world for nothing.

**Mr. Laughren:** That's not true in a situation where you have a severe housing crisis, and this is just further enticement to get them to purchase rather than rent.

The second point I wanted to bring up was the problem of mortgages. I don't know as to what extent you have any jurisdiction here, but there are cases in the same subdivision I was referring to at Chelmsford where the mortgages were 15 per cent.

**Mr. Lawlor:** First mortgages?

**Mr. Laughren:** Second mortgages were 15 per cent and at the end of every month they were paying off \$2 on the principal. They were five-year mortgages, which means that they were paying off \$24 a year. At the end of five years they had paid off about \$120 on a \$1,500 mortgage. There were cases where people phoned me and told me that they actually owed more at the end of five years because of certain charges that were made on to the mortgage. I didn't see those in writing but I've seen the ones where they pay off only \$2 a month.

**Hon. Mr. Clement:** I've seen them.

**Mr. Laughren:** It seems to me that that's another area that your ministry should move in on. Once again, it's too important a debt for people to assume.

**Hon. Mr. Clement:** Under the Real Estate and Business Brokers Act, any mortgages that are arranged, the particulars of that mortgage have to be provided to the borrower.

Again, this is an area where—and I don't know how we can do it unless we put it in neon lights—we urge people to consult with their financial advisers, be it their banker or solicitor, and let them look at an amortization schedule and see what they will owe.

As a matter of fact, I think the form itself provides for an indication of what the balance, or approximate balance will be at the maturity of the mortgage. Even our NHA



mortgages; if you look at a \$21,000 NHA mortgage at 8¼ repayable at \$200 or \$175 a month plus interest. Take a look at what you've paid off on one of those at the end of the year, and it's just frightening. Very, very small amounts are paid off.

**Mr. Laughren:** That's a first mortgage, at least?

**Hon. Mr. Clement:** It really doesn't matter if it's a first, a second or a third, if you have to pay it. It's a payment that you have to contemplate. Quite frankly, on an interest rate of 15 per cent, a person is not going to chew into that mortgage very far on a very low payment of \$15, \$20 or \$30 a month. If it's \$75 a month then, of course, they're going to get through it that much faster, but they're still paying a tremendous amount of interest.

I believe we were talking about this this afternoon at some length. This is a practice that certainly in my area was much more prevalent 12 to 15 years ago than it is today, for a number of reasons which we discussed this afternoon. I urge people who are going to go into the purchase of a major asset, like a home, for goodness sake get some advice from someone and don't rely on that realtor who may be acting honestly in his mind, but really is not quite knowledgeable about it.

**Mr. Laughren:** Yes. The problem that comes there is that very often those people are buying a low-unit-cost home for the reason that they cannot afford any other. The thought of going to legal counsel to get advice is just ridiculous to them.

**Hon. Mr. Clement:** Well, he can't have it both ways, can he? It's like the fellow who wants a good cheap suit to last him 15 years and he doesn't want to pay more than \$8.50 for it. It's pretty difficult and unbalanced.

If he's going to bind himself to some kind of an agreement that's going to involve him in an expenditure of \$15,000, \$20,000, \$22,000 or \$25,000 over a number of years, it's like the fellow buying a yacht. If you have to ask the price, you can't afford it. I think the fellow who says, "Well, I can't afford a lawyer so I'll bind myself to pay \$22,000 plus interest at 15 per cent, because I don't want to spend X dollars to see a lawyer," is penny wise and pound foolish.

**Mr. Laughren:** Yes, I agree. Here's another problem about realtors. I hate to use that term because I get my wrist slapped by the realtors occasionally, because I don't know the difference between a realtor and somebody who dabbles in real estate or builds

houses and then sells them. It is the problem of allowing them to build in unorganized communities. Right now it's left entirely up to the municipality, and in this case there is none, and to the Ministry of Treasury, Economics and Intergovernmental Affairs. It's just wide open for the developer to go in and take advantage of the situation, which also happened in the Sudbury area.

**Hon. Mr. Clement:** Yes, this is a problem that is peculiar to the north, as opposed to southern Ontario. I understand that a great deal of the difficulty that you and I discussed over the past several months has really occurred in unorganized townships. Again, I think that the practice of allowing them to build up in those areas leaves a lot to be desired. Secondly, I think that a purchaser should be extremely wary of going into an unorganized township. Invariably, it's attractive to the purchaser because the services are minimal and the land cost is, therefore, substantially reduced. In my particular area, if you can buy a lot, the cost of services, which are prepaid, are in excess of \$4,000. That doesn't cover the cost of the land; we're just talking about the cost of prepaid services. I don't know what else to tell anybody that's going in there, except to pretend they're walking on eggs and be extremely cautious. These problems don't arise where you have zoning and an organized municipality, or they don't happen as much.

**Mr. Laughren:** Those were three areas where I really didn't expect your ministry to be able to do too much at the present time, but I would hope that you would look at them.

I'd like to raise some issues that I think you can do something about, or I certainly hope you can. One is the practice of creating paper companies. I don't know whether that's the correct legal term, but a series of companies, which once again we saw up there. I suppose it's conjecture at this point as to why they are created, other than perhaps one company gets a bad name and, therefore, they use a different name, so that the local people don't realize it's the same company. Is there anything within your powers to prevent companies dealing in real estate from doing that? If they conduct business under one company name, just by changing the name they should not be allowed to carry on business.

There would have to be a reason for that.

**Hon. Mr. Clement:** I think we are talking about two different areas really. You are



talking about real estate brokers and you are talking about developers or development companies.

**Mr. Laughren:** Sometimes they play both roles.

**Hon. Mr. Clement:** A developer cannot act as a realtor or a broker unless he is selling his own land. If he wishes to develop a subdivision and stand out there and demonstrate it himself, he is an owner and he is entitled to sell his own land. He cannot act as broker for anyone else.

**Mr. Lawlor:** A lot of them do that. A lot of them, in effect, are their own brokers.

**Hon. Mr. Clement:** A lot of them are their own brokers but they are not paying commission from their left hand to their right. They are doing this, obviously, for the purpose of saving brokerage.

Insofar as creating companies is concerned, while this particular branch of the ministry has nothing to do with it, anyone can form a company, create a company, as of right, if he completes the prescribed forms, wishes to carry on a purpose that on the surface certainly is not unlawful and pays the prescribed fees.

Again, a company is only worth what's in it. You and I, tonight or tomorrow, can create a company and we can have \$1 in the treasury of that company. Anybody who is going to contract with that company would be well advised to inquire into the value of the company to see just what it is worth. The company is only as good as the money in the treasury.

**Mr. Laughren:** I am aware of that, but it seems to me that when you have such blatant examples, as we saw in the Sudbury area, of companies being created almost willy-nilly, it is fairly obvious that it was being done to camouflage the owners.

**Hon. Mr. Clement:** That may be one of the purposes. Often there are tax reasons and this sort of thing and other considerations for people to create subsidiaries and affiliates.

**Mr. Laughren:** You have very nearly answered it.

**Hon. Mr. Clement:** I was just going to point out that my deputy mentioned to me that some years ago the select committee on company law urged upon the government that companies be created as of right. In

other words, if the requirements are met no one in my ministry should have the right to exercise a discretion and say, "We won't let this one go through but this one we will." If all the requirements are met then, as of right we'll issue the charter or the certificate of incorporation.

**Mr. Laughren:** In other words, they don't have to have a purpose for existing—as far as the ministry is concerned.

**Hon. Mr. Clement:** There are objects set forth in the letters of incorporation. Under the Business Corporations Act, there are certain ancillary powers or powers inherent in any company which don't have to be included in the charter, if I can use that expression, because they are included under the Act.

**Mr. Laughren:** Okay. The next point is one that is a bit dicey, I suspect, in a room full of lawyers particularly. Perhaps I can explain it best by giving you an example. When people were approached to buy homes in the Townsford subdivision, it was suggested to them that they go to a certain lawyer because if they went to that lawyer, they would save money on the commission. When, however, they went to that lawyer, they did not indeed save money on the commission at all.

It turned out that the lawyer they went to is the lawyer for the company selling the homes. When they got into trouble later—very recently—they went to that lawyer and said, "Look, I am in trouble. Can you help me out?" The lawyer said, "No, that would be a conflict of interest. I am sorry. I can't help you."

Where was the conflict of interest? Was it not at the beginning when he was acting for both parties? He was the lawyer for the company selling the homes and the purchasers were sent very aggressively by the salesman to that particular lawyer, in which case it would seem to me to be automatically a conflict of interest. I suppose you could say that if he is acting in the best interests of both parties there is no conflict of interest, but I can't buy that.

**Hon. Mr. Clement:** I know of no ruling by the Law Society of Upper Canada that says a lawyer cannot act on both sides of a real estate transaction. I do know that under the canons of legal ethics there is some kind of warning or prohibition toward that.

**Mr. Lawlor:** There is a directive as I understand it—I don't think it's a regulation

exactly—which says that if you are acting on both sides you must get a document signed at the inception of the transaction by both parties—

**Hon. Mr. Clement:** Disclosure.

**Mr. Lawlor:** —telling each that you are acting for the other and that in the event of a conflict arising in the court that you can't act for either.

**Mr. Laughren:** I don't believe that.

**Hon. Mr. Clement:** You see, very often, no conflict arises. Many times in my own practice I can recall two separate clients of my office coming in saying, "We have made a deal to buy and sell a certain piece of property. I will buy and he is going to sell." They requested that I act. I can't remember ever getting a document signed. I can remember saying, "Well now, you must realize that if there is any dispute—" We were always busy. We didn't have time to do them. We were always doing the wills from last year.

**Mr. Lawlor:** I'd have nothing to do with it without getting those documents drawn up.

**Hon. Mr. Clement:** I can see Mr. Lawlor was obviously a much safer practitioner, and I can think of a couple of times in my practice I wished I had had such a document signed. Any lawyer who tells you he didn't wish that is not being candid.

**Mr. Laughren:** But should not the aggressive nature of the salesman in sending those people to the lawyer have something to do with it too?

**Hon. Mr. Clement:** Very often I have had this experience, where people have come in and said, "The salesman told me that if I came to you, because you are acting for the vendor I could get a better deal." I said, "Well the salesman doesn't know what the hell he is talking about." I would promptly get on the phone and there would always be a denial that he had said this, or in some instances I have had them say, "Well, you mean you don't give a better deal?" And I said no.

**Mr. Laughren:** Why would the vendor send the customer to you then?

**Hon. Mr. Clement:** Send him to me?

**Mr. Laughren:** Yes, if he is not going to get a better deal, why would he send the customer to you?

**Hon. Mr. Clement:** Perhaps because I was representing the other side he was under the mistaken belief that there would be some substantial savings to the purchaser, or the vendor as the case may be.

**Mr. Laughren:** But not a kickback?

**Hon. Mr. Clement:** Absolutely not.

**Mr. Laughren:** I didn't mean in your personal case, but generally speaking?

**Hon. Mr. Clement:** Well, no. That is about as quick a way—short of one or two other methods—of getting yourself yanked in front of the Law Society that I am aware of.

**Mr. Lawlor:** Isn't that an improper practice?

**Hon. Mr. Clement:** Oh, sure.

**Mr. Lawlor:** I don't know how far the code of ethics goes. Would you rap the knuckles of a real estate man who deliberately directed people in that way? They could give the names of four or five lawyers but not a single one, and many of them do, let me tell you. You know that.

**Mr. Cox:** I am well aware of that.

**Mr. Lawlor:** What do you do with them if they do?

**Mr. Cox:** Have a few sharp words with them. There is nothing in the Act that gives me any authority to go past that.

**Mr. Lawlor:** That should be amended.

**Hon. Mr. Clement:** Sometimes, Mr. Laughren, things are said by perhaps zealous or overly enthusiastic realtors that are just not quite correct. I am not defending the lawyer, I don't know the lawyer, but—

**Mr. Laughren:** There has been so much that stinks about this whole development that it's hard to believe that anyone did anything just by being over-zealous.

**Hon. Mr. Clement:** There may have been some arrangement. I would hope that is not true, but I am not privy to those facts and I just don't know.

**Mr. Lawlor:** It sounds to me like a straight piece of rigging.

**Mr. Laughren:** I think it is too.

**Mr. Lawlor:** Let me tell you this, in my opinion the lawyer is subject to discipline

before the Law Society and he should be reported.

**Mr. Laughren:** He has been reported.

**Mr. Lawlor:** Well that's good.

**Mr. Laughren:** But I would hope that this ministry would—

**Hon. Mr. Clement:** We have no jurisdiction over the lawyer. I can't do anything about him.

**Mr. Laughren:** How about the company selling the homes that has its salesmen sending customers to their lawyer?

**Hon. Mr. Clement:** I don't want to get into the merits of this particular case, because it still hasn't been completed before the tribunal.

**Mr. Laughren:** I understand, but it's a general question. I am not talking about this particular case, I am simply using it as a reference. Generally speaking, does your ministry involve itself with real estate salesmen who do that?

**Hon. Mr. Clement:** If complaints come to the registrar of real estate, yes, he would initiate steps to reprimand that man. Perhaps the man isn't aware that it is a practice that is frowned upon. It is not a wise practice and a reputable realtor will say, 'I can't recommend any particular lawyer; here are the ones in this area. You've just moved to town, here are the names, five or six, select whichever one you want.'

**Mr. Drea:** But they don't do that. I've bought three houses in my time.

**Hon. Mr. Clement:** I said a wise one.

**Mr. Drea:** Oh, Mr. Minister, I don't know what it is like in your area, but believe me in Toronto you go to the joint and the guy spells it right out to you, "Why don't you come to the lawyer who is handling the subdivision and you will get a good cut." You ask how much of a cut, and the guy tells you how much you will get off. I have gone to these yoyos and, so help me, you get a cut and if you want a little extra, another \$10 off, they will take another \$10 off.

**Hon. Mr. Clement:** I am sorry you have these problems in unethical areas.

**Mr. Drea:** You have this everywhere. They say it very simply that it's \$150—I don't know what the fee is now; I have gone through so many of them. But they say you can save a

lot of money; he'll do the two of them for the price of one. This is common knowledge and nobody cares about it.

I raised one like this with your branch last year. Although it hasn't the ramifications of the one in Chelmsford, it was as bad a deal. The guy is now building one mile away and doing exactly the same thing under another name while the other one is being processed out. He is doing exactly the same thing up in Markham that he was doing down in Scarborough and the very same solicitor involved in the same thing.

Of course, we have no jurisdiction because he acts as his own real estate agent and says therefore he doesn't come under the Real Estate and Business Brokers Act.

Mr. Minister, he will go bankrupt next year; he will do in Markham what he did in Scarborough. Then he will go into the town of Vaughan and in the fullness of time he will make a mint up there and he will go bankrupt again; and the people will lose their deposits. He will make a whole career out of it.

**Mr. Lawlor:** He'll probably move to Etobicoke.

**Mr. Drea:** There's no land left in Etobicoke or he would.

**Mr. Laughren:** Could I ask a final question before we adjourn? Does the ministry and the real estate people have any dialogue at all with CMHC regarding people not getting approved loans?

**Hon. Mr. Clement:** Mr. Cox.

**Mr. Cox:** We certainly have discussed the loans with CMHC. We have discussed various properties around the province with them whereby they have advanced money.

**Mr. Laughren:** But if someone is obviously not a reputable dealer; perhaps you haven't lifted his licence, but you have had an enormous number of complaints from him. Would you pass that word on to CMHC and recommend that he not be given money?

**Mr. Cox:** I only have to deal with real estate brokers and salesmen, and real estate brokers do not arrange loans with CMHC—the developer does that.

**Mr. Laughren:** How about that? How about the developers; do you have anything to do with them?

**Mr. Lawlor:** They are a different type.



**Hon. Mr. Clement:** As I understand the practice, the developer will take the application—the man's earnings, number of dependants and that sort of thing—and that is filed with a fee, which I believe is \$35, with CMHC and they make their own assessment. I don't know how they process that internally, what confirmation they require as to earnings, dependants, that sort of thing.

What they are looking for, of course, is a capacity in that individual to be able to repay the mortgage. CMHC doesn't want to put mortgage funds out if there is high possibility of a foreclosure action having to be instituted. So they process them themselves.

My experience has always been that they are always very tough on them. If it was a questionable thing, very often you would have to demonstrate that the wife had some kind of earnings from investment, inheritance or something, in order to get the joint family income up to over the minimum limit for the type of loan they were seeking.

**Mr. Laughren:** CMHC is going to end up a major homeowner in the Sudbury area.

**Mr. Chairman:** Mr. Wardle, and this will be the last one before we adjourn.

**Mr. T. A. Wardle (Beaches-Woodbine):** Mr. Chairman, I have two matters to bring before the committee, but at this hour I move the adjournment; provided I be

assured I will be the first one called when the committee meets again on Thursday.

**Mr. Chairman:** No guarantees, but I will refer it to the Chairman.

**Hon. Mr. Clement:** Mr. Chairman, this committee meets, I believe, at 12:30 to consider one bill. I believe there is only one bill before the committee and I just wanted to obtain the feeling of the committee at this moment whether they would be inclined to sit tomorrow afternoon at 3.

**Mr. Chairman:** Well, it all depends on the length of time the Toronto bill takes.

**Hon. Mr. Clement:** I just want to know in terms of having my staff here. If the committee desires it, then I will have them here. Or if they want to put it off until Thursday at 3 o'clock—

Interjections by hon. members.

**Mr. Chairman:** I understand there are quite a few people coming in to talk on this Toronto bill tomorrow so it is going to be a long one.

**Hon. Mr. Clement:** All right. Fine.

**Mr. Chairman:** Thank you very much, gentlemen.

The committee adjourned at 10:35 o'clock, p.m.

## CONTENTS

Tuesday, May 15, 1973

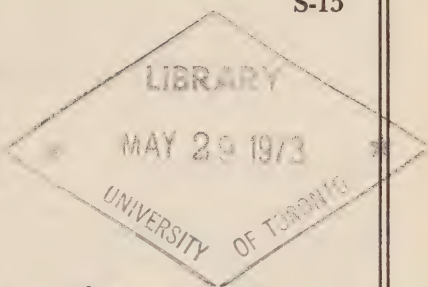
Commercial standards programme, continued .....	S-415
Adjournment .....	S-446







S-15



# Legislature of Ontario Debates

## STANDING COMMITTEE ON SUPPLY

Estimates, Ministry of Consumer and  
Commercial Relations

Chairman: Mr. J. A. Taylor

OFFICIAL REPORT — DAILY EDITION

Third Session of the Twenty-Ninth Legislature

Thursday, May 17, 1973

Afternoon Session

Speaker: Honourable Allan Edward Reuter

Clerk: Roderick Lewis, QC

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973



10

## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 17, 1973

The committee met at 3:15 o'clock, p.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1302:

**Mr. Chairman:** We will continue with item 6. Mr. Wardle, I believe, wished to speak next.

**Mr. T. A. Wardle (Beaches-Woodbine):** Mr. Chairman, the other evening we ran out of time on this particular matter, but I do have a few things I'd like to bring to the attention of the minister and the members of the committee.

The first is the matter of home repairmen and firms in the Province of Ontario. In my experience, we've had a number of people who are placed in an impossible position in this particular matter. I think, Mr. Minister, you mentioned the other night that a person dealing with a home repairman should take precautions.

My experience has been that in the city of Toronto there is a housing standard; every home in the city of Toronto is gone over and the homeowner is given a list of repairs that must be made. He is placed in the position of either doing the repairs himself, if he's able to do it, or engage a person or a firm to do the work for him.

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** I take it this is under a bylaw?

**Mr. Wardle:** Enabling legislation.

**Hon. Mr. Clement:** Yes.

**Mr. Wardle:** Yes.

**Mr. V. M. Singer (Downsview):** Under the Housing Standards Act.

**Mr. Wardle:** The Housing Standards Act.

**Mr. Singer:** They are ordered to do it.

**Mr. Wardle:** They are ordered to do it. When this bylaw first came into effect several years ago, we ran into a good many problems. A reasonable person like yourself, if you were given such an order, would get two or three prices from reputable people. You would check and see that this man is licensed. You would check with the Better Business Bureau and you would find out if this person or firm has had any complaints made against him or it. If there are none and the people are licensed and they seem to be responsible, you would have no problem in placing your work with them.

The problem comes, Mr. Chairman, when a person such as an elderly person, a senile person or a blind person is put in this category. I've had all three in my experience. What are they going to do? As a result of a few sad experiences, the city now will suggest a person get two or three prices. The city will look at those prices and will tell the person if they seem to be reasonable prices for the work to be done. This is some protection.

The fact that a person in Metropolitan Toronto has to be licensed to engage in home building or repair—the licence is \$25—has had some effect, a great effect I would suggest. A person could well lose his licence—some have lost their licences—if there are complaints and the complaints appear to be justified.

What recourse does an elderly person have if he or she has given out several hundred dollars to have the roof repaired? It's unreasonable to expect that elderly people would go up a ladder and look at the roof and ascertain whether this has been a good job.

**Hon. Mr. Clement:** I would think they would have the same recourse as anyone would have who has instructed someone to perform a service, or supply material and the service or the material or both are inferior. They have recourse, and this is talking legalities, to have the matter determined in a courtroom if it couldn't be settled.

Again, you are met with the perfect defence in effect, with the insolvent contractor.



A judgement may go against him and the court says, "Yes, this woman was actually deprived of \$500 and you didn't supply what you said you were going to. I hereby order you to pay her \$500?" I would suggest to you that this judgement for \$500 against a man who has no assets is as good as a judgement for \$5,000 because it just isn't going to be collected.

Getting back to the categories you've talked about, there's one category that really does bother me. You can have a blind person who is in complete possession of all his other faculties and, presumably when he does business, he does it through a friend or a relative or his banker or solicitor. That really doesn't cause me too much concern, because other than the infirmity of being blind, he's under no handicap nor is he any different from any other individual. I am concerned about the person who is senile because now you're talking about someone who is not in possession of his mental faculties, presumably, at the time anyway that he signs or enters into any contract.

**Mr. Wardle:** I have a case now in that same category.

**Hon. Mr. Clement:** No amount of legislation is going to mean anything to that sort of person because he is not a whole person, mentally. Such people are impaired. We could have laws all over the books. These are the people who are the victims of the phoney bank inspector gimmicks. There have been articles numbering dozens, written on the front pages of the daily newspapers published in this province and still the people are going to trap the alleged dishonest teller.

We can't pass a law nor can any jurisdiction say, "You elderly people cannot help the bank catch alleged crooked tellers." We're just stymied. This is a situation, I would suggest, in which in many instances, when the families of these people know the impairment of the elderly parents or relatives, steps should be initiated by which they are deprived, as much as possible, of control over their own money. Many families do take these steps to protect their parents or the elderly persons. A relative will get a power of attorney and conduct the business for that person; or will notify the bank that the parent is aged and really incapable and any cheques over \$25 should be cleared with the son or daughter. I've done it myself on behalf of elderly clients.

**Mr. Singer:** How can you get power of attorney from a person who doesn't know what he or she is signing?

**Hon. Mr. Clement:** It's a very good question, but I've always found that when they were giving me power of attorney—

**Mr. Singer:** How should you get one as a good lawyer?

**Hon. Mr. Clement:** I always found, by getting the bank power of attorney forms to sign, that they were always lucid at that particular moment.

**Mr. Singer:** You can remember specifics? Yes!

**Hon. Mr. Clement:** Yes, I always made ample notes.

**Mr. Singer:** That's your instant recall.

**Hon. Mr. Clement:** Instant recall, yes.

**Mr. Wardle:** Mr. Minister, the poor woman involved came to me about a year or so ago, as one of the aldermen for the district. She had already laid out about \$3,000 for work that was worth no more than \$200 at the most.

**Hon. Mr. Clement:** This amounts, in many instances, to criminal fraud, doesn't it?

**Mr. Wardle:** Right. She has no way of recovering that money. Unfortunately, for that poor woman—I think she's 84 years of age—that was her life savings gone on the basis of "It will cost you \$500," then it was \$500 more and the thing mounted up.

I'm going to suggest, Mr. Minister, you give these matters your consideration. Any person in Ontario engaged in home repairs or similar work should be required to hold a provincial licence. In other words, I think this would work well in Metro, at least, to put the person or firm on the basis that if they do this kind of work they can lose their licence; therefore, they cannot do this kind of work.

**Hon. Mr. Clement:** What about the fraud artist, the con artist who isn't licensed and couldn't care less? The man who would do this kind of thing to an elderly person, I suggest, is a crook. He's not going to be the slightest bit intimidated by a licensing provision one way or another because he'll probably never have one.

**Mr. Wardle:** But at least it's a guide.

**Hon. Mr. Clement:** It doesn't help the victim. This is what I'm getting at.

**Mr. Wardle:** It doesn't help the victim, but it may prevent that sort of thing. I would like you, if you would, to give that your consideration. First, a person or firm should be required to post a bond of at least \$10,000 if it is in this kind of business. It may be less if it is a one-man operation. Then, when people go to the Metro Licensing Commission with a complaint, if it's a legitimate complaint against this man, there's at least some money for recovery. This woman I mentioned has no recourse. She has no way of recovering that \$3,500.

**Mr. Singer:** If there was a local handyman in rural Ontario, who earns his living by going around and fixing a window here and a door there, is he going to post a bond for \$10,000?

**Mr. Wardle:** I suggest to the minister that there may be problems, but there is a problem here for homeowners and maybe there is a way of protecting them.

**Hon. Mr. Clement:** That is a practical step along the line as I see it. I can also see some problems in that you may have a very young man who is a capable workman, but he has little of this world's assets and is deprived of getting a bond. Therefore, he is precluded from entering this exclusive league.

**Mr. Wardle:** Put up a bond of \$1,000. Put up at least something so there's some money there.

Following that, the other problem we have run into, Mr. Chairman, and Mr. Minister, is the verbal commitment, "I'll do this work for \$200." Now, I think a written estimate should be given to the homeowner so he has something in front of him: "I'll dig up your drain. It will cost you \$200 to do it."

I have run into problems where a person said, "It will cost you about \$200 to dig up the lawn." The old fellow said, "All right, go ahead and see what happens." He gets the thing dug up and then he says, "Well, it will take \$300 more to complete this work." I have had this type of case. What's the fellow going to do? He's got \$200 in now so he puts out \$300 more to complete the job. Now, if he was told in advance "This job will cost you \$500," well, maybe he would have taken some other way of doing it.

**Hon. Mr. Clement:** Under the Consumer Protection Act, any work of this kind that exceeds \$50 must be in writing.

**Mr. Wardle:** Is that the law now?

**Hon. Mr. Clement:** And do you know what you are telling me? It isn't working.

**Mr. Wardle:** Yes. Not in the case—

**Mr. F. Drea (Scarborough Centre):** I don't think you use that in Metro.

**Hon. Mr. Clement:** It is in the provincial Act.

**Mr. Drea:** That may very well be, Mr. Minister, but Metro was given enabling legislation some years ago and set up its own metropolitan licensing commission, on structural repairs to homes. I would think that they would rather use their own inspection system and their own regulatory system than the provincial one.

**Hon. Mr. Clement:** I just heard a comment here. I am advised that in Metro, even though they are licensed, they are still registered as itinerant sellers. Now this is a good point—we've got the law and I'll bet you that probably 95 or 98 per cent of them are properly registered as itinerant sellers and licensed by Metro and there is no difficulty with them.

**Mr. Wardle:** Right.

**Hon. Mr. Clement:** The people who are being deprived and defrauded are being worked upon by a small segment of itinerant chimney repairmen and this sort of thing, who possibly are not licensed, or if they are, are completely disregarding it.

**Mr. Wardle:** The other thing I think there should be is a municipal inspection after the work is completed to ascertain whether the work has been properly done and whether the work is safe.

You run into people who may do plumbing and electrical work, a sort of a handyman type who may not have a licence to do that kind of work. A homeowner may be stuck with an unsafe electrical system and unsafe plumbing. He has no protection when this fellow has disappeared and he doesn't know where to get hold of him.

**Hon. Mr. Clement:** I think it varies from municipality to municipality. I know in my own, if work over a certain amount is done—such as an alteration to the house—they have to have a building permit and then, of course, the inspector is on the site. On less major repairs, I am not sure if there is any monetary amount that provides for that or not, Mr. Wardle, I just don't know.



**Mr. Drea:** Well, Mr. Minister, if you are doing electrical repairs anywhere in the province you must get a permit and it has to be inspected either by the local PUC or by—

**Hon. Mr. Clement:** Local Hydro.

**Mr. Drea:** —wherever there is no local public utilities. Plumbing also has to be inspected municipally.

But one of the difficulties—and I think this is what Mr. Wardle is raising—is that it is often an inducement to the homeowner that the fellow for this \$35 repair isn't going to take out the permit from the borough or from Metro. I forget whether permits are \$5 or \$10, but the consumer has to pay that. They say for such a minor thing you don't need to get an electrician, nor a plumber.

If we really wanted to face up to certain things I would suggest to you that at least one-half of the new houses in Metro every year are not wired by licensed electricians. I know in the case of my own home, not only was it not wired by a licensed electrician, but the wrong kind of cable was put in, and were it not for the fact that I took certain precautions by looking at it, the house would have blown up.

**Mr. D. M. Deacon (York Centre):** You mean to say the inspection was not done by a licensed electrician to be sure the work—

**Mr. Drea:** The house was inspected, Mr. Deacon, by the proper authorities, but they did not—

**Mr. Deacon:** I am talking about the actual licence. The electrician did not supervise the work of maybe a helper doing it?

**Mr. Drea:** No, no.

**Mr. Chairman:** I wonder if Mr. Wardle could finish his remarks.

**Mr. Wardle:** Mr. Chairman, I appreciate Mr. Drea's help in this matter. We're a team, I guess, in bringing these things forward.

**Mr. Chairman:** I appreciate the spirit of co-operation.

**Mr. Wardle:** Mr. Chairman, on this particular matter of the home repairs, I understand that the matter of home repairs and this type of operation is the greatest problem facing homeowners on the North American continent.

**Mr. Chairman:** The second matter I would like to bring to the attention of the minister

and the committee is the type of franchises being sold here in Ontario—food products or ice cream chains. This could be a firm advertising a chain such as, say, Joe Blow Hamburgers—I don't know how much ham is in hamburgers these days, Mr. Chairman, or how much beef.

**Mr. P. D. Lawlor (Lakeshore):** Mostly soy-beans.

**Mr. Wardle:** I'm thinking of the type of operation which would be well advertised, usually across the United States and then it comes into Canada. The advertising is to the effect that would induce a person to invest, say \$10,000, in a franchise. What is he getting for the franchise? He is just getting the name Joe Blow Hamburgers. What else is he getting—because he is paying for all his equipment and he is tying himself down to this sort of thing. I don't know what protection a man in that position has. Is that causing your department any problems?

**Hon. Mr. Clement:** Yes, we have had some complaints. I can think of one or two people who have invested very substantial sums in a franchise fish-and-chip type operation. I was astounded to learn—this was before I was even associated with the ministry—that this couple begged, borrowed and pledged everything they had and invested some \$25,000. I was also confounded by the fact that they didn't bother to use a lawyer—because the agent for the franchise assured them that they didn't have to; why spend all that money since the lawyer might charge \$300 or \$400? They took his advice and the franchise took the \$25,000. Boy, I just don't know.

We had some discussions on this—I believe on Tuesday evening—about passing laws to protect people from themselves.

**Mr. Wardle:** This is the problem, Mr. Minister. How do you protect people from themselves?

**Hon. Mr. Clement:** How far does the role of government extend? Are we going to completely interfere with the daily contracts made in the lives of each and every one of us—as I suggested the other night, that no contract is binding unless as proved by a government lawyer. You just go on and on and on.

**Mr. Singer:** Only the ones on our list.

**Mr. Wardle:** Mr. Minister, these are matters that have come to my personal attention.

**Hon. Mr. Clement:** I think the common ones, Mr. Wardle, do not involve that amount



of money, \$25,000. The common ones are more like the great games that were being played here in Ontario some years ago with hosiery vending machines. Some \$700 or \$800 was invested by vendors and they regarded it as a fair amount of money, but not enough to warrant their obtaining the services of a lawyer. They found that while they got the product, the product just wasn't moving. They had little or no marketing experience, these people were just losing their money and became very discouraged. These are the ones who really concern me.

We hope to have legislation before the House this fall dealing with franchises. It has been the subject of some very interesting studies.

**Mr. Wardle:** Mr. Minister, would you consider having a standard form in Ontario for franchises so when people do consider this type of situation there is a standard form that lays out exactly what they are getting into. I had one fellow coming to me with a \$35,000 investment, and he was prepared to put a mortgage on his home to get into this. I merely pointed out to him the cost of the money and how much money he'd have to make each year to look after it, and he quickly became disillusioned. But he was quite prepared to put a mortgage on his home and use his life savings to get this sort of thing, which in my business experience I felt would just be putting money down the drain.

**Hon. Mr. Clement:** I don't think the standard form is the answer to this thing, because there are so many varieties of product and service that can be the subject of a franchise agreement that you would have to vary it so much that a standard form wouldn't be of much value. I do feel that the goal might be that a prospectus has to be filed with the ministry outlining the promises of the vendor or franchiser and what warranties or assurances are given to the franchisee. Then this must meet certain tests and standards imposed by the ministry before the man is allowed to offer those franchises for sale. Also there should be demonstrable proof as to the financial ability of the franchiser to stand behind his product.

Very often these people not only have the right to use the name of the firm, Joe Blow Hamburgers, but also they are into a tied position where they must buy all their products from Joe Blow Marketing. If hamburger at the supermarket is 90 cents a pound or whatever it might be, they find that they are tied into 96 cents from the other fellow.

**Mr. Wardle:** Does a person coming into Ontario to start such a franchise operation have to register with your department?

**Hon. Mr. Clement:** Not now.

**Mr. Wardle:** Should that be a requirement? Why don't you have them, when they come into Ontario and even before they advertise, register with your department?

**Hon. Mr. Clement:** This will be part of the subject matter of the Act.

**Mr. Wardle:** When you bring that in.

**Hon. Mr. Clement:** I think they've got to.

**Mr. Wardle:** Fine. Mr. Chairman, if I may, I will move to the next point which is the matter of a person who buys a home and then finds that the city of Toronto has a work order against that home. I came across this on several occasions. The building department will often times send a long list of repairs that are required to be made. This comes only after the city has been unable to get the fellow's co-operation. Along comes a list of maybe up to 50 things that have to be done. This could run into several thousands of dollars.

Immediately some of these homes are put into the real estate hands and they are offered for sale. They are bought by an unsuspecting buyer. What the city of Toronto does, as soon as it puts out the work order, is list it, I understand, on the deed of the house in the registry office. If the lawyer who is looking after the transaction for the buyer fails to look into that—

**Mr. Singer:** In my opinion, if he does that today he is negligent.

**Hon. Mr. Clement:** The lawyer is going to pay for the repairs, as far as I am concerned.

**Mr. Singer:** He should. Any careful lawyer will not only put it in his offer but search in advance of closing.

**Mr. Wardle:** I had one case just a while ago. As soon as the person moved into the house—in fact, I think almost before he moved in, or the day he moved in—the city inspector was there asking what had been done about these repairs. This man had just moved in and he was faced with the long list of repairs that had to be made.

That is one situation. The other situation is that the city may require this person to have vacated a basement apartment that may be rented illegally under the zoning bylaws.

I had a case like this where there were three apartments and one illegally occupied. The person who bought this house bought it to occupy and rent the three. He had his income figured out as to how he could pay his mortgage. As soon as he moved in, he was then told that the city had already given the previous owner this notice.

Does he have recourse against the lawyer who did not furnish him with this information? Or is there any way to buy without that? Or is there any way of nullifying that sale? Did the previous owner sell it under false pretences and would the new owner have any recourse in either of those two cases?

**Hon. Mr. Clement:** It would depend, Mr. Wardle, on the terms of agreement, which could vary it. If on the agreement you had a vendor of a property like that who says, "I hereby warrant that three apartments may be rented," then obviously your recourse would be against that man if that is not true and it wasn't permitted. You say, has he any recourse against the lawyer? If he instructed the lawyer or the lawyer advised that he check the zoning and search the title, and if at the conclusion of the purchase the lawyer did his searches to bring himself up to date on closing and missed a work order registered against title, there is no question in my mind that the lawyer, would be liable. The same thing applies if he was negligent in his check of the zoning regulations.

**Mr. Singer:** I don't think they are on the title; they are in the city hall where you can find them with a simple search.

**Hon. Mr. Clement:** Yes, just ask the clerk and the clerk will find it.

**Mr. Lawlor:** Except they are putting more and more on titles in the municipalities.

**Hon. Mr. Clement:** It would depend in each individual instance. If you went to a lawyer and said, "I want to buy this house for \$50,000 and here's what I want. I want to make sure there is nothing against that house except the mortgage disclosed in the offer. I want to make sure I can have three apartments in there. I inspected it and they say there are three apartments, and I actually saw them. I want to make sure there are no outstanding work orders." If the lawyer going through the process of carrying out those investigations misses on any one or more of them, there is no question but he would be liable and an action for malpractice would there apply.

**Mr. Singer:** Negligence.

**Hon. Mr. Clement:** Or negligence I should say, yes. These actions are brought and every lawyer by law must have a minimum of \$100,000 negligence insurance.

**Mr. Lawlor:** He has to pay the first \$2,000 out of his own pocket.

**Mr. Singer:** Which makes most of us reasonably careful.

**Mr. Wardle:** I don't think this is known to the general public. At least, it was not known to the two people who brought this to my attention.

**Hon. Mr. Clement:** Again, remember this, the practice varies in different portions of the province. I'm not sure whether the lawyers in this committee are familiar with it, but we have what we call a subsearch procedure, where the client will say, "I don't want a certificate of title. I just want you to look at it and confirm the man I'm buying from is the owner who took back the—"

**Mr. Singer:** I get those instructions occasionally, but I always get them in writing.

**Mr. Lawlor:** Yes, in writing.

**Hon. Mr. Clement:** So do we. In that case the lawyer isn't making any warranty to the client. He's just saying, "All right, you're buying from John Brown and the last immediately registered owner was John Brown, but what his interest is in the title I don't know."

As a matter of practice in the Niagara Peninsula, the lawyer will go back and do a full search, but he won't certify to it, because he doesn't want to put his client into a lawsuit position.

**Mr. Wardle:** Right. So I suppose the—

**Hon. Mr. Clement:** By the way, the reason I know there is a difference, is that the Ontario Law Reform Commission came down to our area when they were doing their studies on the registry office and title matters, and they were somewhat astounded to find this practice which seemed to be quite prevalent in the Niagara area.

**Mr. Wardle:** I suppose the new buyer should really try to look after these things himself. But he depends on his lawyer to make sure how present bylaws are—

**Mr. Singer:** The one biggest single mistake is that so many purchasers come into the



lawyer after they've signed the offer to purchase—

**Mr. Lawlor:** After they've signed—that's the problem.

**Mr. Singer:** —instead of in advance. If they would come and ask the lawyer, and they are going to pay the same fee, to advise them about the particular offer to purchase, they would get far more protection.

**Mr. Wardle:** Right. Thank you. Now the next matter—

**Mr. Lawlor:** The real estate boys are at fault in that particular thing too. They are too anxious to get the thing signed without legal consultation. They'll tell them, "Fine, go ahead and sign."

**Mr. Singer:** Or: "It won't be here in an hour. You haven't got time to discuss it with your lawyer."

**Hon. Mr. Clement:** For everybody who is going to buy a house like that, there are always six purchasers out on the lawn.

**Mr. Lawlor:** Yes, there always are.

**Hon. Mr. Clement:** "You better sign right now because those people are going to buy it."

**Mr. Wardle:** Should this be in the real estate form a person signs, that this house does conform to all the municipal bylaws.

**Mr. Lawlor:** The lawyer always writes it in, particularly if it is a multi-family dwelling—where there are problems with respect to some; where it started off as a duplex and it suddenly becomes a triplex, and up that ladder.

**Mr. Singer:** Certainly with anything less than a new house you have got to have that protection.

**Mr. Lawlor:** Protect yourself.

**Mr. Wardle:** Thank you. Next, Mr. Chairman, is a matter of what are called "phoney cheques" or "pseudo cheques." A person is called and advised he has just won \$75 on a new sewing machine or something of this kind. Most of us are not taken in by this, but there are people who feel they are legitimate winners who go down and hope to buy a \$200 machine with \$75 off or something like this. I understand this is called the bait-and-switch deal. I also understand there have been several complaints about this particular aspect of selling machines.

Does your department have this sort of a problem? Is there any way you can handle this?

**Hon. Mr. Clement:** I'm sure there have been charges laid. They have been dealt with right up through the commercial registration appeal tribunal.

Very often many of these types of people hit a city like Metro Toronto—they have to hit a metropolitan area—and work it for three or four months; by the time the complaints start to come in and the machinery is in motion to investigate it, either they have switched names and moved to other premises or they have moved right out of town and are working in another metropolitan area. They perhaps work right across the country this way.

**Mr. Wardle:** Do they require a licence to get into that type of business?

**Hon. Mr. Clement:** Yes.

**Mr. Wardle:** But this is something you are giving consideration to?

**Hon. Mr. Clement:** Yes.

**Mr. Wardle:** The other item I want to mention, Mr. Chairman, is the matter of solicitation by telephone for legitimate or illegitimate charities. As a person in business over the years, I have received calls from telephone solicitors who say they represent some worthy charity and ask if you will take \$10 or \$25 worth of tickets. I am referring to the boiler room type of operation where possibly 10 per cent of the actual money goes to the charity involved.

I know you've had problems in this area, but I mention it because I understand homeowners rather than business people are being solicited, which widens the thing.

**Hon. Mr. Clement:** Yes.

**Mr. Wardle:** It has been suggested to me that possibly solicitation control bylaws should be considered. This may be more a municipal responsibility than a provincial one, but this seems to be a growing problem, and I am just wondering if your department is having problems with this, or has any suggestions for controlling it.

**Hon. Mr. Clement:** I am going to let Mr. A. R. Walker comment on this, but I would like to make a brief comment myself. A good number of bona fide social clubs and service clubs have really assisted in the growth of this type of racket.



Mr. Wardle: I know.

Hon. Mr. Clement: That's exactly what it is.

Mr. Wardle: That's right.

Hon. Mr. Clement: The members, through laziness, don't want to sell tickets; someone come in and says, "Why don't we have such-and-such an agency sell tickets on a 50-50 split?" I have had calls from the Niagara Falls Kiwanis Club, say, wondering how many tickets I'd like to buy on a certain event.

Mr. E. Sargeant (Grey-Bruce): A \$25-a-plate political dinner.

An hon. member: How much do you charge?

Hon. Mr. Clement: And I find the easiest way is to say "You come down to the office and we will discuss it."

Mr. Wardle: Yes.

Hon. Mr. Clement: I promptly pick up the phone and call a member of that club who I happen to know and find out it is an outfit just working a racket.

Mr. Wardle: Right.

Hon. Mr. Clement: People's minds are very fertile. I had a complaint from a member some weeks ago that people in his riding were just rushing to pay accounts being mailed to them from Hong Kong, saying, "The balance of your account is \$12"—and they usually pay it and send it out to Hong Kong.

Mr. Wardle: I think every person in business receives subscription notices for magazines or bills for services or goods never delivered in the hope that someone in the accounting system may pass it on for payment—and I understand bills like this do get paid.

Hon. Mr. Clement: Oh sure.

Mr. Wardle: They have come to my firm; but, of course, we check everything that comes in and we just send them back automatically, marked "Not our account."

Hon. Mr. Clement: I'd like Mr. Walker to comment on this. I'm sure we have just touched the surface of this in comparison with his background in it.

Mr. A. R. Walker (Registrar, Consumer Protection Bureau): There are a great number of the charity rackets and, as the

minister has said, people will rush in without even thinking. I could go into a long story about the many that we know of, but the only thing we can do is give this a good deal of publicity and increase people's awareness. If anyone calls us before he contributes we tell him one thing: "Please ask the charity organizer if he has a licence from the National Revenue Department." This is one way of stopping it—

Mr. Wardle: Oh, yes.

Mr. A. R. Walker: —because if the charity isn't licensed, donations cannot then be deducted on the income tax returns. Many people, we find, are very susceptible to giving anybody anything in the name of charity. I can't do any more than to warn those who do seek advice. And this is the same information that is given out by many other bureaus.

I would have to confirm what the minister has just said, that most organizations today pay no attention to whom they are contracting with; they are only interested in getting the 10 per cent or 25 per cent, while the promoter gets 90 per cent or 75 per cent of a particular fund-raising campaign.

In the case of business concerns that have been solicited for the posting of their names in international directories, I may tell you that our efforts in this area have resulted in charges being laid in Britain and also a stop order in South Africa. And, believe it or not, we are working out of Ontario against promoters in Hong Kong at the moment. The postal authorities are stopping all mail privileges for those particular promotions.

Regarding the companies in Ontario to which the member referred, the point is that they don't pay attention to what they are actually paying—some of them do—but if they notify us, we can definitely inform them.

Mr. Wardle: Well, Mr. Chairman, I am glad to have that information.

The last thing I'll mention is the matter of charter flights, which of course is a federal responsibility. Specifically, it has come to my attention that some people have been involved in charter flights and left stranded at a great deal of expense to themselves and their families.

Hon. Mr. Clement: Well, the flights themselves, Mr. Wardle, are of course under federal jurisdiction; the federal government

is in charge of the movement of all aircraft within Canada and those originating outside of Canada and coming into this country.

We have met with two or three associations of travel agents, and I would not be surprised to find that some day we will be in the business of regulating the travel agents within the Province of Ontario. The bona fide agents want this, because every time somebody goes belly-up it reflects on the whole occupation.

Travel agents who fail to provide the service that they receive moneys for, as I see it, fall into two categories: the down-right crook who has no intention of ever booking a flight and the person who tries in an honest way to provide the service but, through inexperience or under-capitalization, just can't come through.

It doesn't really matter whether your money has been stolen from you on the one hand or lost on the other; you as the potential traveller suffer the same price—you just don't have your trip.

The problem here is one of bonding—

Mr. Wardle: Bonding?

Hon. Mr. Clement: Bonding.

Mr. Wardle: Yes.

Hon. Mr. Clement: What limits do you draw? You cannot obtain an open-ended bond that bonds against everything; there are limits. The travel agent can be arranging a small tour for 10 people at \$500 a person, which might require a \$500 bond; at the same time he might be arranging for 15 or 20 charter flights involving 200 people a flight, and then you are getting into rather astronomical figures.

Mr. Wardle: Right.

Hon. Mr. Clement: When I met with the travel agents' two associations ASTA and CIT, I threw this problem at them and asked for their consideration of it and to get back to me. I haven't heard back, but I have been advised that they are actively pursuing this to see what suggestions they might make. We are going to see more of them, there is no question about it.

Mr. Sargent: Isn't their big concern—

Mr. Wardle: If I could just finish, Mr. Chairman.

Mr. Sargent: On this same point—

Hon. Mr. Clement: All right.

Mr. Sargent: On this same point, is there any way you can control flights originating, say, in Niagara Falls, NY, or Detroit selling charters in Canada? That's the big problem in Montreal. Boston flights are being sold in Montreal and in that way the people are really being clipped.

Hon. Mr. Clement: To advertise within—

Mr. Sargent: Anyone outside the flight's originating point, say in a New York airport, selling space in Ontario might be hurting a lot of people—because I know a lot of people have been clipped that way.

Hon. Mr. Clement: I think advertising that comes in across the borders is monitored by the federal government, but it is a problem. I run into this—

Mr. Sargent: It is placed in local dailies.

Hon. Mr. Clement: I run into this very much in my area and any border town does where the flight emanates just a few miles away but in another country.

Mr. Sargent: How can you control that?

Hon. Mr. Clement: Probably if we get into this licensing or regulating of the travel agency industry, we would have to have advertising sanctions against Canadian news media from carrying it. But again, if they carry it over a US TV station that's beamed into Ontario, or a US radio station, you are not going to catch it all—but it's better than doing nothing, I would concede.

Mr. Wardle: Mr. Chairman and Mr. Minister, in order to balance my questions and my remarks I would like to say that my understanding by checking is that at least 95 per cent of all businessmen doing business in Ontario are honest with good business ethics. There's only about five per cent involved in any type of operation like the ones I have mentioned; or any operation where the customers are being hurt in any way.

I have respect for people doing business in Ontario. I hope that they, too, will feel that anyone doing business here in an unethical manner should be dealt with, and if they are not dealt with under existing laws, that we should think of ways to bring them into line.

Mr. Chairman: Thank you for your comments.

Mr. Singer: Your task is fairly easy. All you have to do is locate that five per cent and lock them up.



**Mr. Lawlor:** Mr. Chairman, there is quite a number of things; I hardly know where to begin.

**Mr. Chairman:** Mr. Lawlor, Mr. Drea was second on the list.

**Mr. Lawlor:** I am sorry. I lowered my eyes to see this jargon.

**Mr. Drea:** I see. You mean the light got in them like last night, eh?

**Mr. Lawlor:** There was a certain amount of light, yes.

**Mr. Drea:** No, that's an in-joke about another meeting.

Mr. Minister, first of all, I would like to just add to something that Mr. Wardle said. This involves the charity pitchmen. I realize the difficulties that there are in trying to come to grips with the situation where the bona fide organization, be it a service club or church group or fraternal organization, or what have you, sells its name. I think if we could persuade the service clubs to be a little bit more careful with their good name—and their lack of care really flabbergasts me—I think that would be one way. But in a more practical way—

**Mr. Sargent:** That's a good point, you are right.

**Mr. Drea:** I have written a great number of things about this—and it has always really concerned me that a very reputable service club would plunge into one of these things.

When you said to them: "You know, the entire thing operates on your good name." They would say: "That's right." And you would say: "Yes, but look at who's doing it." And they would say: "Well, we are a little bit concerned about the way they sell."

So if there was a simple solution, I think it would be at that level.

However, when we went into lotteries in this province we had to cope with this problem of expenses; what was going to be the expense allowed to the people who were selling the tickets for the promotional activities and what have you, and how much of the lottery dollar was actually going to go back to the person if they won. It seems to me that in this field we might very well be able to duplicate the success we have had in lotteries because I think, by and large, while there is some difficulty in selling the tickets at the moment, nonetheless you are getting a pretty fair shake on a lottery as a consumer.

It may not be all that successful commercially, but nevertheless you are protected.

It seems to me that one of the areas that we might be looking into is to say to those selling tickets, or soliciting on behalf of a charity, that in order to qualify for a licence to do so they would have to certify that 80 to 85 per cent of the proceeds do go to the charity and indeed that there is a charity—because a number of these are sold over the telephone on behalf of orphans in Ontario.

Now, Mr. Minister, I doubt if you could find a certified orphan in this province. There just isn't any such thing. They are under the public trustee, or they are under the care and guardianship of various agencies. They are protected by this government. They are financed by this government. It seems to me that by using the same rule of thumb that we used in lotteries that we could indeed control this.

I can understand Mr. Walker's problem is that he says: "Do you have a tax deductible thing?" There are a number of tax stamps of the federal government in this city that are passed around—and again by very reputable people—and are peddled to promoters.

I think in the last story in the Star dealing with lotteries, I noted that a gentleman in the middle of Toronto—and I am not going to mention his name, not because I am weary of writing, but I am tired of publicizing him—but this fellow is a part-time minister and for some reason some years ago as a bona fide clergyman he got a tax stamp. And he traffics in it. He loans it out for a certain percentage of the take. So that even the federal government's programme of trying to control all of this is being circumvented. I just wonder if anyone has considered the approach that we have used on lotteries?

**Hon. Mr. Clement:** Mr. Fisher.

**Mr. E. C. Fisher** (Director, Lotteries Branch): Yes, sir.

**Hon. Mr. Clement:** I wonder if you could come up here.

**An hon. member:** Lotteries is not exactly within this vote.

**Mr. Drea:** No, but I am saying this is how we could clean up the lotteries and protect a person. We do it in horse racing. So much of the dollar that is bet at the window must come back to the person that's betting it. There's an assigned standard.



**Hon. Mr. Clement:** Mr. Fisher, what are your comments on this? This is Mr. Fisher, for those who don't know him, the director of lotteries for the province.

**Mr. Sargent:** The former mayor of Goderich.

**Hon. Mr. Clement:** The former mayor of Goderich? He must be pretty good if he comes from that part of Ontario.

**Mr. Singer:** Good Liberal part of Ontario.

**Mr. Fisher:** Mr. Chairman, Mr. Minister, first of all the lotteries are authorized under section 190 of the Criminal Code. Also under that section, subsection 2, we are able to set terms and conditions on our lotteries.

Now, there are no statutes either federal or provincial that would regulate the soliciting of funds. I think the only one that comes close is—and I stand to be corrected on this—either chapter 61 or 63, Ontario statutes, which says that if a person believes that there is some wrongdoing, then he can take his complaint to a judge. But that's the only part in it, so that there is no regulation whatsoever on the soliciting of funds.

**Mr. Drea:** I was aware of that, Mr. Fisher, but what about the practicality of it; of dealing with charitable solicitations on the same rule of thumb basis, or using the same guidelines used in lotteries?

**Mr. Fisher:** I would think that it is now becoming necessary to do so in order to regulate it; and I would think that as you suggested, sir, the same rule of thumb would apply and would work, as a matter of fact.

**Hon. Mr. Clement:** We operate under regulations, as you appreciate, passed really as an extension of a section of the Criminal Code and order in council—

**Mr. Drea:** If I could just interrupt you for a moment, I am not suggesting that these charities be put under the lotteries legislation at all. What I am suggesting is that similar—

**Hon. Mr. Clement:** I am sorry. I was analogizing too, and thinking you were analogizing—

**Mr. Drea:** No, I think it certainly may very well be. I would suspect we would have to pass an Act or make an extension of the Charitable Gifts Act, or something in there to give us the power. What I was interested in was the practicality of the administration of it, as to whether this might be a less complex way to get at the problem; because I

am not holding out any rainbow in this. I think that as fast as we get this one in they would try something else but at least it would take a lot of the profit out of it.

**Mr. Sargent:** Did Gulf check out the money game with you?

**Mr. Fisher:** I'm sorry, Mr Sargent?

**Mr. Sargent:** Did Gulf Oil check out the money game with you?

**Hon. Mr. Clement:** It's not a lottery.

**Mr. Fisher:** Not really.

**Mr. Sargent:** I'm asking a good question. I mean, is it a lottery?

**Mr. Fisher:** That isn't a lottery.

**Hon. Mr. Clement:** It is not a lottery. I played that today for the first time. I just got that cloverleaf and threw it away.

**Mr. Sargent:** Why this choice and consideration?

**Mr. Fisher:** I wonder, Mr. Chairman, Mr. Minister, if those questions could come up under lotteries? We could deal with them then because there is a very slight difference between the two and I would be pleased to discuss it at that time.

**Hon. Mr. Clement:** All right. With reference to Mr. Drea's point, I think your point is well taken. I think it is something that we should not ignore.

We will look into it and see if the prevailing statute dealing with charities should be extended or one enacted that would provide some kind of control. There would have to be some limit. You couldn't say that the administrative costs shall not exceed 20 per cent because what about the ones at 21 per cent? There should be some area.

**Mr. Drea:** A guideline. That is why I wasn't saying a fixed amount. I was saying a guideline.

**Hon. Mr. Clement:** I take umbrage at your comments that there are no certified orphans in Ontario. I read in a legal publication not too long ago the old saw about the young man charged with the murder of both of his parents, who threw himself on the mercy of the court because he was an orphan.

**Mr. Drea:** That's an old one.

**Mr. Sargent:** That's kind of sick.

Hon. Mr. Clement: All right.

Mr. Drea: How can I pass on to another matter, Mr. Minister? I promised my colleague, Mr. Good, the other night that I would mention this because he has had a number of complaints in this area—

Mr. Sargent: He's no friend of yours.

Mr. Drea: Oh, yes he is.

Mr. Chairman: We won't debate that.

Mr. Drea: He doesn't wear a muzzle either. In any event, Mr. Minister, he is concerned about the proliferation of long-term contracts in both the dance studio and the health studio industries. He has brought a couple of complaints to my attention, asking me what could be done about them. He is concerned about this and, as you know, I introduced a private bill last year and there was pretty substantial agreement in the House that something had to be done. I certainly think it is now more imperative than last year.

While the dancing situation seems to have cooled off, the health club business, by franchise and by advertising, is really proliferating. I notice two new ventures in that field which are obvious franchises because there is the same outdoor decor and signs and the same type of advertising at a number of addresses. This is particularly so in the field of female health clubs where there is some concern by health authorities as to the various types of dieting and manipulation to lose weight. I would draw that to your attention.

Hon. Mr. Clement: You don't have to get personal now!

Mr. Drea: I think it's a little bit late for me and thee but I'd like to draw that to your attention this year.

Hon. Mr. Clement: I'll tell you what we are doing. We are looking at any private bills introduced into the House which relate to any of our matters of interest. We are preparing a policy field statement which will be before the policy field within the next two or three weeks dealing with matters pertaining to long-term contracts, such as you have touched upon, in the health field, the dance studio and so on.

Speaking off the top of my head it would seem that we have approached the point where we might consider limiting the contract by legislation to, say, 12 months or six months in spite of what the face of the con-

tract says. This is not unique, I think. This is the basis of—

Mr. Drea: Again, Mr. Minister, if I can interrupt, the Ministry of Education—I know that the particular branch has now been transferred to another ministry—was faced with the identical problem some years ago in the field of some unscrupulous private trade schools, particularly one which was run by a gangster. The ministry came up with very effective legislation as it divided the course into semesters and no matter what you signed for, once you began a semester, you paid for the semester. At the end of that time you were out.

Of course, the game in all of this is that they cannot physically supply the services to the number of people who have enrolled for them or they would need a building the size of Queen's Park to do it in.

This was also true in the private trade schools at that time. The point was to get these students to sign the contract and then they were bound for the whole contract. Then the people running the schools would annoy the students so much they didn't come back but nonetheless that was a legally enforceable contract.

Again, what appals me—and this really startles me—is that banks lend on these silly dance contracts. This is a far cry from the traditional maxim that you are going to invest in something, particularly a service, go and see your bank manager because he is very objective about it. Certain bank managers consider it to be a routine loan and let it go through. Of course, then it becomes even more enforceable because the bank couldn't particularly care whether or not you get your dancing or your health lessons. It's a straight matter of a term loan and you have to pay it.

I think on something as routine as this that everybody agrees it's a despicable practice. I think that maybe the point you raised a couple of minutes ago on charter flights—I'm going to come to those—that some of these things won't answer all of the problems is right but they are better than doing nothing.

I think in this field now is the time to get our feet in the water. If it doesn't work, we put out feet in the water again and again and again, and sooner or later we will come up with the thing that will work. I would certainly say in my experience, with Mr. Walker, and I don't think he'd disagree with me, that this area of health and dance clubs is probably the most frustrating in the whole consumer protection field.



Everybody knows that it is wrong and yet it is done in such a way that it is legally correct. There's very little that can be done about it other than to sympathize and to hope for legislation. Everybody has been hoping and wanting legislation for at least eight, nine or 10 years now.

**Hon. Mr. Clement:** I hope that we will have some positive legislation as a result of these observations and others.

**Mr. Drea:** Mr. Minister, if I could just switch to something else. I wonder, in the light of certain experiences in the United States, if, under the jurisdiction that we have—and I can see that it is somewhat limited but we do have some jurisdiction over false and misleading advertising—we would be prepared to follow the lead particularly of the States of New York and Florida.

That is, that when celebrities are used to advertise a product and the basis of the advertisement, either electronically or in print, is that the celebrity either owns the particular product and has found it to be excellent, or takes part in the service and finds it to be outstanding and what have you, that indeed, the person who is hustling and who has given his or her name to this does own the product or does use the service.

In the State of Florida, they have rather ruthlessly gone through the players on the Miami Dolphins football team. They have found that the one who is used as the huckster for freezers does not own a freezer, and he has been ordered to cease and desist and the company is being fined. They have found that the man who supposedly had an outdoor swimming pool built by this company and was very satisfied with it, lives in a high-rise apartment and there is no swimming pool built by this company.

**Mr. J. A. Renwick (Riverdale):** Would you require Gordon Sinclair to shop only at Dominion Stores for his food?

**Mr. Drea:** No, I wouldn't require Gordon Sinclair to shop only at Dominion Stores for food unless he said, "I shop only at Dominion Stores for food." I think when you get to that point in it, there is an inducement given out to the public by people they look up to.

Certain people look up to athletes; certain people look up to entertainers; certain people look up to newscasters and so on and so forth. When they put the stamp of authenticity on it, I think it changes the particular advertisement from a mere commercial. It becomes an endorsement.

**Mr. Renwick:** I agree with that.

**Mr. Drea:** If you have a routine announcer, a staff announcer on a TV station, presenting a commercial, I think that the public—

**Mr. Sargent:** Well, the Premier (Mr. Davis) sold the taxpayers a phoney bill of goods at the last election. What are you going to do about that?

**Mr. Drea:** Well, we will take care of that one.

**Mr. Chairman:** That is under the next vote.

**Mr. R. Haggerty (Welland South):** It's all right on target.

**An hon. member:** It's the Boilermakers Union.

**Mr. Drea:** I think, when you have a staff announcer reading a message or a straight ad, a retail ad in print, the public now has been conditioned over a period of years so that it does realize that this is a commercial or an attempt to get it to buy. When you bring in a person they look up to, who says, "This is first class," I think it becomes a stamp or a guarantee of the quality or the efficiency or the excellence of the service.

Without getting into trying to control what celebrities do to make a little bit of money in their off-time—in a great many cases some of these people should know better; we are back to the same one I used about the service club lending out its name, because they are peddling their names—I think there has to be some defence for the public.

Now if I was an athlete and I owned a particular product and I thought it was good, I would certainly think that I have the right to say, "Yes, I find it good."

**Mr. Sargent:** They don't own any products.

**Mr. Drea:** Of course they do. I think that if I am merely using my name and I have no use for the product—and part and parcel of the advertisement, be it by an entertainer or someone else of note, is "I use this and my personal experience is that it is very good,"—you have changed the rule in the commercial a little bit.

At this point, even though I realize that the bulk of the jurisdiction over this is in the federal field, certainly I think we have some clauses pertaining to false and misleading advertising which we might well want to look at.



**Mr. Singer:** Mr. Chairman, before the minister answers that, it is Mr. Drea's last remark which concerns me the most. I think he makes a valid point. I wonder what you think the Ontario position is, in view of the fact that there is federal legislation? I don't know which head of provincial jurisdiction it would come under—you might put it under property and civil rights perhaps—but it would seem that the federal government to some extent has occupied the field. Now, have we any constitutional rights on that, or do you have any opinion?

**Hon. Mr. Clement:** I don't have any opinion. I have not considered the problem or thought of it or had it drawn to my attention.

**Mr. Drea:** We do have legislation.

**Hon. Mr. Clement:** Yes.

**Mr. Drea:** Under your Consumer Protection Act.

**Hon. Mr. Clement:** Oh, I know we have advertising legislation. But the thing you mentioned about the celebrity, or person of note, is very interesting. I wasn't aware that New York State and Florida had considered acting in this area. Now, I take it they have some enforcement agency that asks these people to cease and desist if their claim is not borne out.

**Mr. Drea:** The state attorney's office.

**Hon. Mr. Clement:** Then they have machinery built into their legislation to take action, probably on an injunction-type basis.

**Mr. Drea:** No, Mr. Minister. I would suggest that while they are doing it through the state attorney's office in both places, what they are using is precisely the same legislation that we have in our own Consumer Protection Act. We have stopped jam auctions from handing out leaflets on the grounds that they were false and misleading advertising and that has been upheld. It was upheld before we had a commercial appeals tribunal; it went through the former one and I don't know whether it ever went into court to be appealed but it certainly could have. But they chose not to.

So the thing has certainly worked at that level and while this isn't a jam auction it is certainly somewhat akin to it because it is a matter of almost a personal sale,

as against the collective sale in a retail establishment.

But I throw that out to you as something I think we should be looking at, because the trend now in advertising is for the personal endorsement. This used to be a trend in advertising in the United States and it was not a trend in this country. Now it is getting to be a trend in this country.

I wonder, for instance, without getting into the food business, I just wonder, since the two biggest chains are now using personal endorsements, how many of the people really do partake of their services and so on and so forth, as they say they do—

**Mr. Sargent:** What the hell does it matter?

**Mr. Drea:** Well, it matters a lot, I think, to the consumer whether it's just a straight ad that says "Shop here, it is good," or whether someone of renown comes on and says, "This is excellent. I have found it to be so personally," and then you find out that the person who says that has never been near the place in his life.

**Mr. Renwick:** This is a point which concerns me because I raised it broadly the other night. But I ask this simply as a question: Do they use the well-known news broadcasters for the purpose of lending credibility to the advertising campaign, and is that a valid use? What statement should be made to indicate the fact that they are being paid for lending that credibility? They are trading off, in a sense, their public reputation as broadcasters to support a particular advertising campaign. I don't know the answer to that question. Maybe that is slightly different from the point that Mr. Drea raises, that there then is no requirement that Gordon Sinclair, or the prominent actor whose name escapes me who does the Loblaw Groceries one, indeed must himself or his family shop at those stores.

I don't know if that is a valid distinction or not. But there is something wrong with that method of lending credibility without some earmarking of the fact that it is a commercial operation and that they are there to lend credibility to the campaign. I don't know how you do it.

**Hon. Mr. Clement:** Well, other than children and very young people at an impressionable age, I don't know how much impact it has on the average consumer. I mean, if a prominent hockey player says he uses a certain brand of toothpaste, other than

the subliminal effect on the consumer, and there may be some subliminal effect—

**Mr. Drea:** Well, Mr. Minister—

**Hon. Mr. Clement:** —do you, when you shop, or do I take brand X instead of the other because so-and-so—

**Mr. Drea:** Mr. Minister, let's face facts. In some of these commercials, the talent fee runs as high as \$10,000. Now, the agency can hire—

**Mr. Renwick:** I don't think we should be asking that question. We are not in that business. But as Mr. Drea said, they are paid very substantial amounts of money.

**Mr. Drea:** You could get a staff announcer for \$50.

**Mr. Renwick:** There are people who are experts in the field.

Interjections by hon. members.

**Mr. Renwick:** It worries me because there is a kind of misrepresentation in there that needs to be earmarked and, I think, dealt with in a clear way with some clear identification.

**Hon. Mr. Clement:** I would be prepared to discuss it with the Association of Canadian Advertisers. I haven't, but I would be prepared to do it. It has never crossed my mind. You make a good point with me when you say that they pay in certain instances very high fees; there must be a very decided growth pattern in the sale of that product after they utilize somebody or they wouldn't keep them much longer.

**Mr. Singer:** There was a trend on the CBC by some advertisers to hire CBC announcers whose faces appeared at regular intervals on newscasts and so on. I remember one occasion when a man named Earl Cameron, who still works for the CBC, was touting some particular product and one of the members in this House complained and the CBC immediately took him off and assigned him to a lesser position.

**Mr. Drea:** But there is a policy within the CBC that the 11 o'clock newscaster has to be so impartial that he cannot do outside commercial work. But that is only a house rule. Now, you have newscasters on other channels—

**Mr. Singer:** Channel 9 newscasters do a lot of commercials.

**Mr. Drea:** Yes, there is no house rule there against it.

**Mr. Renwick:** It would be interesting to inquire about the National Broadcasting Corp., because that "Today" show, for example, is using publicly recognized broadcasters in commercials throughout the programme.

**Hon. Mr. Clement:** Well, what do they do with these famous celebrities who are doing night-time shows, like Johnny Carson, who at the appropriate moment holds up the dog food?

**Mr. Drea:** I don't know, I never watch it. I don't know anything about him. I have other things at that hour.

**Hon. Mr. Clement:** A lot of us, I should explain, go home at night and look at television, you see.

**Mr. Renwick:** I get up early in the morning and watch the "Today" show.

**Hon. Mr. Clement:** What effect does this legislation have on Johnny Carson?

**Mr. Drea:** No, no, again you are into the area of the electronic thing crossing state lines. But what they were concerned about is here are 33 well-known celebrities in the State of Florida, the best football team in the world, and they are hearing, on electronic and in print ads and identified with that team, very popular figures saying that one of them owned a freezer. It turned out they went over and asked him, "Do you own this kind of freezer?" He didn't own any kind of freezer. His agent got him the job—I forget what the fee was. Their argument is that this is a false inducement to the public, that this person is literally endorsing the product.

**Hon. Mr. Clement:** Their jurisdiction, as I see it from your detailing, is only against people within the boundaries of that state.

**Mr. Drea:** Oh, yes, oh, yes.

**Mr. Singer:** Does anybody get excited about Wayne and Shuster for Gulf? They are funny and they—

**Mr. Renwick:** I don't think that's a product.

**Mr. Drea:** That's a little bit different.

**Mr. Renwick:** It is; it is different. They were originally hired to facilitate the change-over in public recognition of the name from Canadian Oil to Gulf; that was the main pur-



pose originally and that was to attract attention to the advertising. But that seems to me to be somewhat distinguishable from the Dominion Stores advertising campaign, or the specific endorsement of specific products by name athletes, or celebrities in other fields.

**Mr. Sargeant:** Mr. Chairman, the thing is that you never see any legislation going into the books against lawyers, you see.

**Mr. Renwick:** To protect the industry.

**Mr. Sargent:** Hear me out here. We're getting so damned involved in every business, we are putting so many laws in the books, we are sticking our nose into everybody's business. We should mind our own business and do things that are important. But here we are—Who's protesting the ad business? Nobody, they generate more money—

**Mr. Renwick:** Oh, oh, they do pretty well. They—

**Mr. Sargent:** But here we are—this is peanuts we are talking about, eh? If a sports celebrity wants to make some money when he is at his peak, let him make some money. And as John says, if they are gullible enough to buy this nonsense, well, let them.

**Hon. Mr. Clement:** I said that?

**Mr. Sargent:** Well, this—it wouldn't—

**Hon. Mr. Clement:** May Hansard show a question mark at the end of my comments!

**Mr. Sargent:** If Frank has nothing more to do than this, and starts an "Action Line" for somebody to tell you their problems, that's ridiculous.

**Mr. Drea:** Well, what happens to the little boy who buys a hockey stick because a certain hockey player says "I use this stick all the time"?

To get to the point, three or four years ago, a very well-known hockey player—and I don't want to dredge up the case again—said that he used a certain brand of skates. That company merchandised those skates with his name on them all the way across Canada, and he would not use that particular brand of skates professionally. He used another kind because he said it was better. This is hardly playing fair with the public.

Or you have people driving a certain type of car, and then they are photographed, and they don't own that kind of car at all; they own a much more expensive one. They say, "In my line, and I am seen everywhere, this

is a good car to drive." And then you find the guy in real life is driving a Cad.

**Hon. Mr. Clement:** Well, I'll undertake to talk to the Association of Canadian Advertisers on it. Quebec is concerned but only in the area of misleading and deceptive advertising which really you're touching on—

**Mr. Drea:** Yes. For children though.

**Hon. Mr. Clement:** —pertaining to children. I can't speak for the Quebec minister but the attitude that I perceived in him insofar as adults were concerned was that they can make a judgement. Surely we are mature enough to make a judgement, but the children are not. This was the point that he was tied up with.

**Mr. Drea:** Yes, well, I'll try to accommodate—

**Hon. Mr. Clement:** And, by the way, this will be amplified at the interprovincial meeting of provincial ministers in Quebec at the end of this month.

**Mr. Drea:** I never like to disappoint my friend up there from Grey-Bruce. We'll come into some more mundane things now which may not touch him as personally as that one did.

**Mr. Minister:** I was going to go into the travel agency business, but I want to wait until the stenographers change because the other charming lady has kind of an interest in it. I think she might get a kick out of recording my remarks about a certain event that is taking place. So can we move into the—just for a few—

**Mr. Chairman:** I hardly think that is in order, Mr. Drea. You can choose your own sequence. I'll wait—

**Mr. Drea:** Yes, I was just doing somebody a favour, Mr. Chairman.

**Mr. Chairman:** The editorial comment wasn't necessary.

**Mr. Drea:** What, that they were charming?

**Mr. Sargent:** You have control of all these departments, do you?

**Mr. Lawlor:** I must inquire into the various tastes of the various stenographers.

**Mr. Sargent:** What are you doing New Year's Eve?

**Mr. Renwick:** Yes. How can we be sure about honest reporting here?



**Mr. Lawlor:** It seems the stenographer is the only one to listen to you and I don't blame you for waiting upon her.

**Mr. Drea:** Mr. Minister, if I could come to the automobile business, particularly our regulation of it.

**Mr. Sargent:** Talk about the travel business.

**Mr. Drea:** Pardon?

**Mr. Sargent:** Talk about the travel business. The travel business.

**Mr. Drea:** Oh, yes, but I want to wait. I've just got a little—

**Mr. Sargent:** He knows I—

**Mr. Drea:** Well, all right. We'll do the travel one first, since Mr. Sargent may want to go away tonight.

Mr. Minister, some time ago I drew to your attention a complaint that was brought to me—I would hope that Mr. Singer would stay for this; he found himself in a situation where he was going to be sued a couple of weeks ago, and I apparently find myself now that I am going to be sued.

**Mr. Singer:** Are you retaining me? In that case, I'll stay.

**Mr. Drea:** No, I think you'll be very interested in this one. While it's off the path of the one you were involved in, we have a repetition of this, in that apparently daring to talk to an MPP now is grounds for a lawsuit—which I find absolutely fascinating.

**Hon. Mr. Clement:** I find that rather interesting too.

**Mr. Drea:** Yes, well, I am going to read this letter into the record, because I think it is very important that when someone consults his MPP, somehow a businessman feels that's harassment, and he therefore intends to sue.

In any event, this deals with a couple of young ladies who wanted to go on a charter flight. Since both of them were teachers they were limited to the spring break to go, and they wanted to go to Hawaii. As it turns out, they booked through a tour agency, and the tour agency had in its printed advertising the date of the departure of the flight and the date of the return of the flight.

The agency could not meet its commitments for the departure or the return of the flight from Hawaii, because the airline in-

volved postponed the availability of its aircraft one day—at least that's what they say. So this tour was leaving one day later and arriving back one day later. At this point the two young women cancelled out, on the grounds, and I think very fair grounds, that the contract had been arbitrarily broken—they couldn't supply the service that they had booked for. They asked for their money back, and both of them got \$333 back.

The tour, despite the fact that it couldn't provide the service, kept \$25 each as its commission for doing all the work. It was at this point that I brought it to the attention of your ministry, Mr. Minister, because it seemed to me that there was no need for a commission to be involved when they had arbitrarily failed to deliver the service. I would take it that you turned it over to the Consumer Protection Bureau, because here we have a letter back from the ministry—I have a copy of it—and it says here:

From our discussions with Messrs. Laplante and Bringham, we learned that initially you and Miss Frank [these are the two young ladies involved—a Miss Crocker and a Miss Frank] were afforded the privilege of taking over the flight arrangements of two other ladies who had found that, due to changed schedules of work in their employment, they were unable to take this holiday on the March dates. The agent, Mr. Laplante, accordingly was thus permitted to oblige you and Miss Frank, but at that stage any subsequent cancellation would render you illegible—

**An hon. member:** Ineligible.

**Mr. Drea:** No, they have got "illegible"; they must mean "ineligible."

—for any refund of the moneys paid. Under the booking plan of Sunquest Vacations, of which you were aware, cancellations received later than the due date for the payment of the balance of the fare, i.e., eight weeks prior to departure, are classified as late cancellations, and all moneys are forfeited unless an eligible substitute passenger, as in your case, is found from the waiting list. You and Miss Frank were the substitute passengers who had taken over from the other individuals.

While the trip was scheduled on March 17 to March 24, as appearing in the advertising brochure of Sunquest Vacations, American Airlines suddenly changed the date for Sunquest from March 18 to March 26 because a plane was not available for March 17.

As you will appreciate this obviously caused inconvenience not only for Sunquest Vacations, but also for the passengers proceeding on the trip. Mr. Bringham tells us that he most clearly pointed out to you and Miss Frank that you would arrive back in Toronto approximately at 7 a.m. on the morning of March 26, and you would actually be in ample time for your duties as a school teacher and thus he was hopeful that you and Miss Frank would go along with those plans. Instead you insisted on cancellation of the two seats as reserved for you on these flights, plus the hotel bookings remained vacant and Sunquest Vacations had to absorb the full loss.

They did consider it was fair both to you and Miss Frank in their agreeing to refund the amount paid, less a penalty of \$25 each as a last minute cancellation.

Sunquest Vacations have told us that in addition to your filing complaints with Mr. Drea, you have written to Star Probe and other authorities—

presumably the “other authorities,” Mr. Minister, if I can digress, is the hon. John Clement:

—which has caused them to suffer further inconvenience although they had considered that you were extended their fullest co-operation beyond what would be required of them. Accordingly, Mr. Bringham reports that he has obtained legal counsel and it has been recommended they now proceed against you and Miss Frank to recover the refund of \$333 respectively already paid by them. Under the circumstances he is not prepared to negotiate further and our efforts on your behalf to recover the penalty of \$25, as already assessed, have failed.

We regret that this bureau cannot be of further service to you. It might be pointed out that while their advertising pamphlet maintains a handling charge of only \$15 per person, to be deducted on cancellation, this only applies when a cancellation takes place eight weeks prior to departure and this would not be applicable in your case.

Yours very truly.”

It is from Mr. Walker.

Mr. Chairman, I think on the basis of this case there are two very important points. Since when does it constitute the basis for a legal action for a person to make legitimate inquiries of her member of the

Legislature and of the minister of the appropriate department of this province? I think this is indeed a very serious thing and I would certainly hope that this firm does take this to court, because even though it would probably be in the small claims court, I would like to see what the decision is on this. Even though it is in the small claims court, since it is over \$200 it can be appealed, so it can be brought into another court. I think that is No. 1.

The second point—and I think that Mr. Sargent was referring to this a while ago, although he was talking about flights for people in Montreal emanating out of the Commonwealth of Massachusetts, and flights here emanating out of Niagara Falls, N.Y.—is that here is a company which puts out a printed advertisement and it says the flight is from March 17 until March 24. All right. That is what you are buying. Then it comes along and it says that somehow the airline cannot supply a plane so it is changing the dates, and if you don't go along with it you are subject to only a proportionate refund.

I know of no other area where, when a service cannot be delivered, when nothing has been provided, when it is arbitrarily changed, the customer is penalized. If you give \$50 down on a stove and the store cannot produce the stove, they don't keep \$15 of that \$50 back for saying they made efforts to locate the stove. They are required to give back the whole thing.

This fascinates me, because you see in this case everything is out of the control of the consumer. The travel agent says, “We were inconvenienced because American Airlines couldn't supply a plane.” Well, that's tough. If the travel or tour company has got a relationship with a carrier and the carrier cannot provide service, then I suggest they have legal remedies against them. Or they can change over to another airline.

But I suggest to you that the consumer in this case is being penalized because of arbitrary decisions being made by the person selling them the service and the other person providing the service, who then come back and say that, “Because you have complained to your MPP, or talked to a newspaper, and you have talked to other authorities,” which indeed are the ministers of the Crown in this province, “we are going to sue you.”

I know you have a copy of this letter, Mr. Minister. If ever there was a need for us to get into something right away in this



province it is into this nonsense. You know, two years ago they didn't even advertise. They had post office boxes out at Malton and you couldn't even find who was running the flights, and so on and so forth. Now apparently they just don't care who asked them anything at any time. They say, "Okay, fine. You go and complain to the government and we will sue you."

On the basis of this letter I would hope that there would be a task force within your ministry, or whatever the appropriate name is, and that we get into the travel and tour field. Because obviously we have now hit rock bottom and the consumer simply has no defence whatsoever against very arbitrary actions. Indeed, they are now being threatened.

**Hon. Mr. Clement:** I am aware of the contents of that letter and the writer of that letter, Mr. Walker, of course, is passing on, and quite properly so—it certainly is not endorsing or anything by any stretch of the imagination—

**Mr. Drea:** Oh, no. I have no quarrel with Mr. Walker.

**Hon. Mr. Clement:** —passing on to the young ladies involved the position that has been taken. Right now it is a matter of contract between the agency and the two young ladies and I won't speculate on what the outcome will be. I have my own views.

I have touched on the problem of regulating the travel industry and the representations that have been made to us on behalf of that industry wanting to be regulated, and also one of the areas of difficulty which the industry recognizes, i.e., the bonding. I am waiting to hear back from them, but I would assume that we may be into this area of legislation fairly quickly.

**Mr. Drea:** With all due respect to the minister, I don't think in this case that bonding is the issue. It is just plainly a case of you promising a tour on a certain day and then you arbitrarily changing it and people wanting to opt out.

**Hon. Mr. Clement:** It is a matter of contract between the parties here, and there are remedies available to either side. It is one thing to threaten a lawsuit and another to take it to court and be successful. There is many a slip between the hand and the lip.

**Mr. Drea:** I suggest to you, Mr. Minister, that there is a basic arrogance when a travel agent or a tour promoter tells the government

of Ontario that on the basis of someone communicating with her elected member of the Legislature and the minister of that department that they are going to go into court. It is a little bit more than somebody just trying a bluff.

Indeed, I wouldn't care if it is a bluff; it is the principle of the matter. Either the travel agents are running this province or the elected representatives of the people are, and I think that this particular end of the travel business has now thrown down the gauntlet.

**Mr. Sargent:** You should lower the boom on those guys, they are getting away with murder.

**Hon. Mr. Clement:** I think the contents of that communication will undoubtedly be brought to the attention of the trial judge by the solicitor representing the young ladies. I think the judge would be very interested in that.

**Mr. Drea:** I would certainly hope, Mr. Minister, that the young ladies are not going to have to be required to hire solicitors in this matter, or that if they are required to hire solicitors the trial judge will award costs accordingly.

**Mr. Lawlor:** I don't know how you would get it into evidence. Have you spoken to the Speaker about contempt proceedings before the House? It might be worth it.

**Mr. Drea:** That's interesting.

**Mr. Singer:** I'll speculate a bit, if I may. I don't think there is any action that I am aware of called harassment as a civil claim. I would be very surprised if any action of that type could succeed in these circumstances.

**Hon. Mr. Clement:** What the gist of the letter says, as I read the letter, is that they are now going to sue for the amount which the agency in fact refunded to the young ladies.

**Mr. Singer:** No, which they are claiming as their liquidated damages for harassment, which seems a little weird to me.

**Mr. Lawlor:** They won't sue.

**Mr. Singer:** They won't sue. The other thing is, it would seem on the surface that there is a legitimate claim—

**An hon. member:** Counterclaim.

**Mr. Singer:** —in contract for a refund of \$25, if the young ladies wish to pursue it.



**Hon. Mr. Clement:** Perhaps some damages.

**Mr. Singer:** Yes. I can hear some suggestions from behind here. There is a section of the Criminal Code of watching, besetting, harassing, and that sort of thing, but that is a criminal matter; I am not really aware of any civil claim. It may be something akin to nuisance, in which you could get damages or a restraint order, but a harassment claim? I wouldn't think so. It is a pretty vague field of claim in a civil action.

**Hon. Mr. Clement:** This may be a foundation stone in our law.

**Mr. J. P. MacBeth (York West):** New ground for the common law.

**Mr. Singer:** I would say, "Sue me."

**Mr. Drea:** In any event I am prepared to accept the legal opinions on this. But not being a solicitor, I know exactly how those two young women feel.

Let's say, for instance, that this company does issue a writ. These two young ladies have to go out and hire a solicitor and since they are working people they are going to have to pay for a solicitor. They are also going to have to take time off from school and their job when all this is done, and so on and so forth. This is indeed a pretty hefty penalty to have to pay for talking to your member of the Legislature, or to the minister.

However, I leave it with you and I draw it to your attention for one reason, besides the matter of principle in this. This is the classic example. There has to be some action in the near future on this whole business.

**Mr. Sargent:** How does the Hansard girl come into this deal?

**Mr. Drea:** She knew the appropriate authority to bring it to in the first place.

**Mr. Chairman:** You have made your point, Mr. Drea.

**Mr. Sargent:** All I can tell you, Mr. Drea, is when we are in power a couple of years from now we'll look after it for you.

**Mr. Drea:** I wouldn't hold my breath.

However, if I may turn to the last thing I wanted to say to the minister. I just want to go into the automobile field for a few moments.

Last year there was an event which has led to a cold war between the retail automobile industry in at least Metropolitan Toronto, and perhaps southern Ontario, with

the regulatory branch in your ministry. The event, or non-event—and it depends upon whom you talk to on this—concerns the efforts of the Toronto Automobile Dealers Association to insert an advertisement in the Toronto Star. The particular thrust of that advertisement was that you were better off if you bought a used car from a used car dealer than if you bought it directly from the owner in his driveway.

There were three parts to that particular advertisement—which incidentally, did appear in the Globe and Mail and did appear in the Toronto Sun, but somehow did not appear in the Star.

The first part was that you were better off in terms of protection against liens on the car if you bought from a dealer. The second part was that the odometer could not be changed by a licensed dealer, whereas it was not an offence for an individual to do so. And the third part, and probably the most controversial part, said very categorically that mechanical fitness certificates were very easily obtained and just as easily forged.

Now then, the industry is rather insistent, Mr. Minister, that this ad was not taken by the Toronto Star because our registrar told them that they should not. I've had some discussions with your registrar and he informs me that he at no time said this.

But I will read you a letter from the Toronto Star, dated Feb. 7, 1973. This is addressed to Mr. Homewood, who is the general manager of the Toronto Automobile Dealers Association.

Dear Mr. Homewood:

As per our telephone conversation of Wednesday, Feb. 7, I advised you we had heard from Mr. MacCormac, the registrar of motor vehicles, advising us that your advertisement scheduled for Thursday, Feb. 8, was unacceptable. As stated above we are currently withholding this advertisement until we receive further clarification from you.

We were given to understand that Mr. MacCormac will be advising you by letter.

Now then, there is a letter of March 22, 1973, from Mr. MacCormac to Mr. R. W. Dabor, who is the president of the Toronto Automobile Dealers Association. The first part is just an acknowledgement of the letter.

First let me make it quite clear that no direction was given to the Toronto Star by myself or any member of my staff.

Following the submission of the advertisement by your association, a member

of the advertising staff called this office because they were concerned as to the content and we stated that we shared that concern, but positively no direction was given to the Star concerning whether the advertisement should or should not be accepted.

My concern, as stated in conversations with Mr. Homewood, revolved around the implication that purchasers may be necessarily better protected by buying from dealers in automobiles rather than private sellers, for had the preamble ended at "to buy a used motor vehicle" then it is quite possible we would not have been concerned. But the suffix to the advertisement carried on to say "from some private sellers" and this was our principal concern.

Mr. Minister, there are further things I could introduce here. There is some commentary in a publication by an executive of the Toronto Star that the ministry did direct that the ad not be carried. This has led to a total cold war between a very sizeable segment of the automobile industry and the registrar.

Two things in this concern me. One, I don't think really that we have any legislation governing the placing of advertisements by trade associations. This was not an individual car dealer; this was the trade association, that may be a moot point in all of this. Secondly, when a trade association draws the attention of the public to certain deficiencies in the legislation of this province, then I question the right of another branch of the Ontario government to say, "No, that ad shouldn't run," or, "No, we find disagreement with the facts."

Let's take these things in order and let's ignore the lien one. I'm prepared to concede that you may or may not have just as much difficulty with a used car dealer on a car that has a hidden lien as you will from a private seller. I think personally you might have less. But I'm prepared to concede that one.

Let's go into this business of mechanical fitness.

Mr. Singer: What about the odometer one?

Mr. Drea: I'm coming to that one, too.

Mr. Singer: I was under the impression it was an offence for anyone to change an odometer.

Mr. Drea: No, sir, it isn't. If they adopt my private bill it will be.

Mr. Singer: Only for dealers.

Mr. Drea: That's right.

Hon. Mr. Clement: The federal government under the Weights and Measures Act is making that a federal offence, applicable to anyone.

Mr. Drea: I'm very glad the federal government has adopted my legislation.

Mr. J. Riddell (Huron): You would expect that, wouldn't you?

Mr. Drea: There are days when I think—well, leave it go.

At the moment and at this particular time, in the winter and spring of this year, it is not an offence for me to change the odometer on my own vehicle, but it is an offence if I, licensed under your ministry as an automobile dealer, change it.

I would draw to your attention two private bills. Mr. Shulman has one, concerning the odometer situation—but this doesn't go as far as mine—and I have one. I know that Mr. Shulman will be very glad the federal government is acting upon his suggestions. We may be hitting a whole new field down there—introduce them in Ontario and get them through in Ottawa.

Mr. Singer: Just good government up there, that's all.

Hon. Mr. Clement: They have got the Act, but they're having trouble with the regulations.

Mr. Drea: Nonetheless I think that this is fair comment by a used car dealer that "when you buy from me"—I know there have been offences and they've been prosecuted—"you are protected by the province because I cannot change the odometer without the potential threat of losing my licence." I think that that is certainly a fair warning to a consumer. If it wasn't, then why do we have the legislation?

If it is no protection whatsoever, then I suggest to you, Mr. Minister, we might as well throw the law out. I'd like to think that we put these laws in—and I'm sure that you do—to provide protection to the consumer.

Let's just come back to what I was talking about a moment ago, the mechanical fitness certificate. A mechanical fitness certificate can be easily obtained and is just as easily forged. I know this isn't in your ministry. But I'm taking advantage of the technicality that it was due to your ministry that this advertisement did not appear.



These certificates are forged—a great deal of documentary evidence has been submitted all over the province this year to show that these things are forged. They've even gone into the cases where the minister's regulatory branch found out that certificates were forged after an accident and has taken disciplinary action and so on and so forth.

Quite frankly the mechanical fitness certificate isn't worth the price of the piece of paper that it is written on, because the penalty for forging, I suggest to you, is \$50—\$50 to a mechanic when he gets \$100 to do it. He doesn't lose his licence. There is no revocation of the class A certificate. There is nothing under the Apprenticeship and Tradesmen's Qualifications Act that says a certificate of competency can be revoked because the man is a crook. It is only if he is incompetent. So that these things have been known to be forged.

As a matter of fact—and again just coming back to it—if the car dealer forges it it is not his mechanic who is liable, it is the dealer who is liable for what the mechanic, as his agent does there. If that certificate is forged at a dealership, the dealership can lose its licence, or be subjected to very heavy fines, or to quite substantial discipline.

If the mechanical fitness certificate is no protection to the public and the fact that we insist that it not be forged—which we do in the retail automobile field—if facts like these can't be drawn to the attention of the public, then I suggest that we might as well throw that law out too.

These are protections that we put in through the Legislature at a time when the industry was in a very unstable condition and people were being killed through buying unsafe cars. I'm sure you can go back as a solicitor to the days when our original effort in this thing was the most ludicrous certificate ever issued in this province—it just said a number of things—the brakes, the windshield wiper and so forth—had been checked and the car was safe or unsafe.

As long as they told the truth they were all right. If they checked it off as totally unsafe and handed you the keys and you drove it off the lot, they were free and clear. So they just merrily said it was unsafe, and we had the naive impression this would stop anybody from driving the car off. Well, we had to finally come to the mechanical fitness certificate. But I think this raises these concerns:

First, do we in this province have the power to tell a trade association that it can-

not place an advertisement which implicitly points out certain deficiencies in Ontario legislation, albeit the fact that there are deficiencies is much to the advantage on a sale of the car dealer?

Secondly, is it the habit of newspapers in this province, when they look at advertisements which may be critical of government legislation, that they immediately call up the civil service to ask whether, indeed, the ad should be run? I think this is another important fact.

Thirdly, on what basis do we say that an ad like this shouldn't be run? If the mechanical fitness certificates are the object of a private bill in the House—I have one and I'm sure that Mr. Shulman has one in there somewhere and if the odometer thing is of such concern that you have two members of this Legislature with private bills in this session, and the federal government, as you say, has now acted upon it, on what basis do we tell people they cannot put advertisements in the classified ad section of newspapers?

**Hon. Mr. Clement:** I have two general comments I'd like to make, and then I'd like to make a specific comment pertaining to the question you have raised relating to the ad in the Toronto Star. First of the two general comments is this: I think that everyone in this room would probably agree with me if I said that the used car market was a real jungle not too many years ago, particularly in the metropolitan areas of this province. It was for this reason that the Act was brought into being and a registrar system and a registration system invoked. I feel that we've come a great way since that particular time in cleaning up what I've described already as a jungle.

Secondly, we've had a very interesting debate this afternoon, pertaining specifically to the question of misleading advertising to the consumer. Because he sees a hockey star endorsing it, the consumer may, quite properly, infer that everything in that ad is true and the article or the product must be good, or the service must be excellent, because Mr. Citizen of Note, or someone of some fame, endorses the product.

As I understand this particular incident, the Toronto Star did contact the registrar, the ad was brought to the registrar's attention and his opinion was asked as to the contents of the ad. I don't have the ad before me, but I have seen the ad that appeared in the Sun. The registrar, according to the report I got, advised that caller that the ad might well be misleading—we're dealing now with mislead-



ing advertising—because the ad inferred that purchasers should exercise extreme caution when buying from private individuals, the inference being that they wouldn't have to worry too much if they bought from an accredited dealer.

The ad apparently referred to certain basic risks dealing with clear title—that's a risk you might run when you buy from an individual as opposed to a dealer—falsified odometer readings and falsified safety certificates. The registrar advised the *Toronto Star* that it might well be misleading for these reasons: His feeling was that there should be no inference or impression created in the mind of the reader that you didn't have to worry too much about this when buying from a dealer as opposed to a private individual, because he was seized with the knowledge that within the last two years there have been over 250 dealers convicted for supplying falsified certificates, or for failing to issue certificates. This is where the matter came to a head.

It's been interesting, from my point of view up here, to listen to our earlier debate and, in a sense, be criticized for not taking a position where advertising might be misleading or deceiving, and then, in this instance, the ministry be criticized for having taken a position. I'm not quibbling with you. I find this a very interesting debate in that it poses a problem. But bearing in mind my general remarks, we have come a long way and the industry had to be cleaned up.

**Mr. Drea:** No question, Mr. Minister, no question.

**Hon. Mr. Clement:** I'm not naive enough to say the industry has been cleaned up. I wouldn't make that statement about any industry. But only through the vigilance of the ministry and its personnel are we going to retain some form of consumer confidence in the market, insofar as relates to used cars.

**Mr. Drea:** Mr. Minister, don't you find it somewhat unusual in this case—you'll be taking a little shot at me for suggesting one thing on one topic and not on another, but I think this one's got a little bit more to it than your remarks—don't you find it a bit unusual when a newspaper which makes its bread and butter out of private car sales, the classified ads, suddenly becomes concerned about a trade association warning about some of the dangers that may occur when people buy through that market, and our regulatory body comes down and says that this thing

could be misleading? I fail to see how it's misleading.

I think it's a matter of record that mechanical fitness certificates are forged and are easily obtainable. I think it's a matter of record that at the time the ad was going to be put in, I, as Frank Drea, private citizen, could change the odometer on my car and that was no offence, but I, as Frank Drea, licensed car dealer, was proceeding under my own peril and would be nabbed. I agree that Mr. MacCormac is very efficient in this.

I'm willing to quibble on the point about the lien, but I think you would have much better protection finding out a lien when you bought from a licensed car dealer, because at that particular moment in history you again would have all the services of Mr. MacCormac to go after that car dealer to make it right, whereas if you bought it from me as an individual I could say, "Well, buddy, if you didn't know enough to check in Toronto or in York county or in Ontario county, that's your problem."

I just fail to see where the thing is misleading.

**Mr. Singer:** Could I say a word, Mr. Chairman, at this point? I don't think that Mr. MacCormac or the department presently has any statutory power to say there cannot be advertising, and if they attempted to exercise any power that they haven't got, then I would be critical. But I would think a man in Mr. MacCormac's position has a responsibility and a duty to give his comment in relation to a particular event. And I don't find that comment abhorrent at all. I think that ad was drafted—as I've heard it; I haven't seen it—with far too broad a swath and it was designed to give the impression that only the used car dealers are pure.

Really not on the point, I had occasion to consult Mr. MacCormac quite recently in relation to some difficulties a client of mine was having. I understood what rights he had, but by reason of his talking to the car dealer the original transaction was eventually reverted to. I just don't find all used car dealers, in my personal professional experience, to be the only pure ones who sell automobiles. I think this ad had certain misleading connotations and I don't find anything wrong with what Mr. MacCormac did. In fact, I think what he did was reasonable and logical.

The second aspect is that perhaps newspapers act in their own interest. I wouldn't deny that either. The *Toronto Star* recently

decided they weren't going to accept advertising in relation to a homophile publication. There have been complaints, I gather, to a common newspaper bureau which finds it somewhat critical. I gather the Star controls an outfit called Newsweb which decided not to print this thing. I frankly think that's a decision at the moment that belongs to the newspapers.

I'm a little hard put to find where Mr. Drea rests his criticism. I can't get nearly as excited as he does about the things he says. In fact, I don't find anything wrong with them at all.

**Hon. Mr. Clement:** It is my understanding that the registrar has absolutely no jurisdiction over the newspapers to tell them what they may or may not insert in the form of ads relating to automobiles. If he finds, after consideration and perusal, that an ad which in fact has been inserted is misleading, then his only recourse is against the seller of the cars. That is, against the advertiser himself, but not against the newspaper.

Now why the Star called is only conjecture on my part and I offer no views on that. Perhaps the Star was aware of an ad it had carried relating to an association of dance studios. This is a subject very familiar to you because I think it caught your attention.

**Mr. Drea:** Yes. They had government sanction to run that one.

**Hon. Mr. Clement:** I think you expressed some concern about that.

**Mr. Drea:** Yes. They had the government's sanction to run that one.

**Mr. Singer:** Well, how can government give sanction or not give sanction when they can't control the advertising? They gave an opinion of whether or not in the experience of the particular official it seemed reasonable or not.

**Mr. Drea:** The government was quoted in the dance ad. The government was quoted.

**Mr. Chairman:** Any further comments, Mr. Drea?

**Mr. Drea:** Yes. Well, Mr. Minister, just to come back to this. Again, I fail to see where it's misleading. If you have two members of this Legislature who are concerned enough about the things that are being drawn to people's attention in this ad to introduce a total of three private bills in a session, then I suggest to you that the advertisement—and also the question of liens, while it was in there—has been brought to the attention of

your ministry now, or is it still within the scope of the Attorney General's department?

**Hon. Mr. Clement:** The Attorney General's.

**Mr. Drea:** The Attorney General (Mr. Bales) has been wrestling with the solution to this problem for quite some time, but I think by next year that we will be out of that one.

**Hon. Mr. Clement:** Let's not leave this matter, Mr. Drea, because it is an important one and I think it boils down to a diversity of opinion. The opinion of the registrar was expressed that it might well be misleading because of the content of the ad, for the reasons we've touched on. Presumably the association, with whom we have no criticism per se, does not share that view and doesn't feel that it was misleading. So you have those two opinions.

**Mr. Drea:** Well, Mr. Minister, could I end this with one question, although there is something else I want to come back to when this is through? I would take it, then, that there is no substantiation whatsoever that Mr. MacCormac, as the registrar, gave directions to the Toronto Star not to publish this particular advertisement?

**Hon. Mr. Clement:** Well, Mr. MacCormac is right here and he was engaged—

**Mr. Drea:** Well, you told me your report—you went through a long history of the whole thing—

**Hon. Mr. Clement:** Yes, that is what I am advised, but he is right here and if you would like to hear from him I think he is the person who should be answering that question. Mr. MacCormac.

**Mr. Drea:** Did you hear the question, Mr. MacCormac?

**Mr. R. G. MacCormac** (Registrar, Motor Vehicle Dealers): Yes, Mr. Drea. The Toronto Star did make the call to me, I did make the comments that you have mentioned, and I did give what I thought was honestly my opinion. My opinion was based upon the fact that they referred to the risks involved in buying from private sellers.

I'm on record since then in writing to the association as saying that we commend any effort by the association to educate the public—which we have been trying to do ourselves for many years. But we don't think that they should be educating the public by implying that they are exposing themselves to a risk only when buying from private persons. We



feel a person has a right to sell his own automobile. If I want to sell it to my friend, I feel that I have that right.

We know from our experience that there have been many contraventions of the odometer law and also of the certificate of mechanical fitness law by automobile dealers. But, as another distinguished member of the Legislature said, they have implied that they are Simon Pure.

We suggest that anyone acts cautiously when exposing himself to a risk or when buying a used car. And I think it's a very commendable thing for any association to suggest.

I think the full story should be known that on Jan. 2 the association issued, as they do, a Monday-morning "Hotline." In speaking about a proposed advertising campaign they were going to conduct—and I'm quoting now from this publication—they stated: "The reader would then be counselled to deal with members of the Toronto Automobile Dealers Association or any dealer licensed under the Motor Vehicle Dealers Act."

Well, I feel that the subsequent advertisement was obviously designed to promote business for the people in the industry rather than taking the more commendable approach, which would have been to protect or educate the public in the general field of buying.

**Mr. Drea:** Yes, but to come back to my question. I think you have probably answered it. There was no directive from you?

**Mr. MacCormac:** No.

**Mr. Drea:** What you were venturing was an opinion or a commentary? And the Star then did what it chose to do?

**Mr. MacCormac:** We have never issued any directive to a newspaper and I do not agree with you, sir, that we do not have jurisdiction to even exercise that direction through a trade association. It must be remembered that every member of that association is a registered motor vehicle dealer.

**Mr. Drea:** What happens, Mr. MacCormac, in a case of a fraudulent ad?

Let's take an ad which says that a 1972 Charger "must clear lot" or something for \$1,500 which is a very attractive ad. And indeed there is no such Charger. Do you not scan the newspapers every day for ads like that from car dealers?

**Mr. MacCormac:** When we first got into this legislation in 1965 the first thing we did was to require all automobile dealers to show the licence numbers of vehicles. This removed that old bait-and-switch business whereby they would advertise vehicles they didn't have—at prices they wouldn't have sold them for—and prospective buyers found out when they got there that one had just been sold and then the dealer would switch them to another one.

So we do scan the newspapers, but we do have a limited staff, you know.

**Mr. Drea:** Yes, I know, but what happens when you do find an ad like that? Doesn't the newspaper draw it to your attention that this is a fraudulent ad?

**Mr. MacCormac:** No sir.

**Mr. Drea:** You let it keep on going?

**Mr. MacCormac:** No. No, we direct the dealer, if necessary. We only make directions to the dealers.

**Mr. Drea:** I see. You tell the dealer to yank the ad, is that it?

**Mr. MacCormac:** Right, sir.

**Mr. Drea:** Well, one last thing and it could be for either you, Mr. Minister, or it may be for Mr. MacCormac, because it's going to require some figures. I would like to know how many cases there have been before his registry, or before the commercial tribunal, in regards to the alteration of odometers in the last 12 months or to the forging of mechanical fitness certificates? The reason I ask you, Mr. MacCormac, is I would take it as a layman that you have to institute the proceedings in these cases.

**Mr. MacCormac:** I beg your pardon?

**Mr. Drea:** I would take it as a layman that your branch would have to institute the proceedings, wouldn't they?

**Mr. MacCormac:** We institute proceedings on contraventions of the Act under the odometer law, but we don't institute proceedings for offences under section 58 of the Highway Traffic Act. We take cognizance of these offences and bring them to the attention of the dealer, if he is convicted. But we do initiate any proven contraventions of the odometer law.

**Mr. Drea:** How many of those would there have been in the last year?



**Hon. Mr. Clement:** I've got some figures here, if you would like to note them, Mr. Drea. Some of them may not be in answer to what you have asked. Inspections and investigations last year—1972—the amount redressed to consumers, \$409,678. The breakdown on prosecutions, firstly pertaining to dealers: Forty-one were charged, 35 convicted. Sixteen cases are pending. Some of these are 1971 figures carrying into 1972. With reference to salesmen, 19 were charged, 16 convicted and three are pending. There were 206 informal hearings before the registrar—

**Mr. Drea:** Excuse me, Mr. Minister. What's an informal hearing?

**Hon. Mr. Clement:** It's where someone is called in because there have been complaints against the person; it's in the nature of a discussion of the matter complained about. There were 206 of these. Registration was denied, revoked or suspended in 95 instances. There were 50 instances where terms and conditions were consented to or imposed against dealers and/or salesmen.

Regarding appeals from these hearings before the registrar, there were 12 hearings before the tribunal. Registration was denied, revoked or suspended by the tribunal in seven instances; and terms and conditions were imposed in five cases.

In addition, there were bond forfeitures and so forth. For example, last year there were 11 dealer bonds forfeited, totalling some \$55,000, out of which \$18,600 was paid against the bonds that were forfeited.

Within the province, at the end of 1972, we had registered 3,805 dealers and 12,698 salesmen.

**Mr. Drea:** And if I recall correctly, I think you said nine licences were revoked by the commercial tribunal.

**Hon. Mr. Clement:** Seven licences were denied, revoked or suspended.

**Mr. Drea:** Seven. These are dealers?

**Hon. Mr. Clement:** Yes, and 95 licences were denied, revoked or suspended by the registrar. The registrar has the power to revoke a licence; and then the person, within 15 days, can appeal to the tribunal.

**Mr. Drea:** So that means 102 dealers were in difficulty out of 3,800, does it?

**Hon. Mr. Clement:** No, they were removed.

**Mr. Drea:** They were fraudulent and were removed. I see.

You don't have a breakdown on the odometer business?

**Hon. Mr. Clement:** No, I don't have that here. Do you have any figures as to odometer matters, Mr. MacCormac?

**Mr. MacCormac:** No, I don't keep a record of the prosecutions under particular clauses, because there are so many clauses of the Act under which we can bring charges. Unregistered salesmen, unregistered dealers, failing to record odometer readings, altering odometers—there's a multitude of charges we can bring.

I can tell you that since the middle of 1972, when we started prosecutions under the regulations concerning odometers, the courts have been taking a more severe view of these offences. In Hamilton yesterday morning, a dealer was fined \$500 for failing to show the odometer reading on a sales order. The courts are taking a much more serious view of this.

**Mr. Drea:** I'm sorry. You're losing me, Mr. MacCormac. Where do the courts come into all of this?

**Mr. MacCormac:** Well, we don't always revoke a dealer's registration for one offence. I think it's rather like a court giving a man a suspended sentence. If we were to take away a registration or to consider taking away the registration of every salesman or dealer for the first offence—

**Mr. Drea:** No, but how does this get into the provincial courts?

**Mr. MacCormac:** Because it is now unlawful under our Act for any dealer in the Province of Ontario to fail to show the odometer reading on a bill of sale or to tamper with an odometer.

**Mr. Drea:** So the dealer gets a double-header charge then? He gets a commercial charge, which is handled by the tribunal, and he gets a provincial charge, which is handled by the court. Is that correct?

**Mr. MacCormac:** It's possible, but it doesn't always happen that way. Sometimes we will proceed by prosecution but if it's a second or third offence, or a number of offences that seem to justify a hearing, then we might consider the revocation of his registration.

**Mr. Drea:** Could you give me a ballpark figure on the odometer business?

**Mr. MacCormac:** Against dealers?

**Mr. Drea:** Yes.

**Mr. MacCormac:** I would say we have charged possibly not less than 30 dealers in the last year.

**Mr. Drea:** And how many of them would have had their licence revoked?

**Mr. MacCormac:** As far as I know, we did not take the other action of revoking the registration in any of those.

**Mr. Drea:** What about the Cross Canada out in Scarborough?

**Mr. MacCormac:** Cross Canada Car Leasing was another matter entirely. We chose not to prosecute but rather to propose the revocation of their registration, because it was a flagrant abuse.

**Mr. Drea:** Yes, but the licence was revoked, was it not?

**Mr. MacCormac:** By the tribunal. That matter is now under appeal.

**Hon. Mr. Clement:** They are appealing that.

**Mr. Drea:** Well, let's lump it all in together then, Mr. MacCormac. Between you and the tribunal together, do you know how many dealers' licences have been revoked for falsifying odometers?

**Mr. MacCormac:** I can answer that precisely. Cross Canada Car Leasing and, last week, Victoria Motor Sales in Kitchener; and I was just informed this morning that they are also appealing that. So there are only two.

**Mr. Drea:** Two of the 30?

**Mr. MacCormac:** No, the 30 I referred to were those we went by way of prosecution. The other two I'm talking about were heard before the tribunal and were supplementary to the others.

**Mr. Drea:** Well, let's come back again to the whole picture. Between you, the tribunal and the courts, what would be the ballpark figure?

**Mr. MacCormac:** Well, the tribunal doesn't take action. I take action, and they may appeal it to the tribunal.

**Mr. Drea:** Yes, okay.

**Mr. MacCormac:** I took action against two; they went to the tribunal and the tribunal

upheld my proposed decision to revoke. In the case of the other 30 we went by way of the court procedure and initiated proceedings.

**Mr. Drea:** Thank you very much.

**Mr. Singer:** Mr. Chairman, just before we leave that, I want to make just one comment.

I would find it very strange if as sophisticated an organization as the Toronto Star, with very ready and, I imagine, frequent access to as good legal advice as can be obtained, would likely accept a direction about what goes into its publication.

It might look for guidance, but the Star guards very closely its right to run its newspaper as it sees fit. If the Star thought it was being directed, when obviously there is no power to give that direction, the Star could have and would have obtained that advice very quickly.

If the Star thought that it was being given instructions that were illegal, I would guess—I don't know—that we would have heard much more about it.

**Mr. Drea:** Well, the Sun and the Globe ran it. They didn't find it very misleading.

**Mr. Singer:** Well, all right. All right.

**Mr. Drea:** This is the basis of the thing—and there was no contact with either one of them.

**Mr. Chairman:** Are you all through, Mr. Drea? Mr. Lawlor is next.

**Mr. Lawlor:** Just to follow up what Mr. Drea had to say, which strikes me as curious, I would have considered that the more serious offence was the one taken by way of quasi-criminal proceedings to summary conviction; and once that had been obtained, it would come back the other way and revocation would be almost certain. It may look a bit like double jeopardy, but it's certainly not a knockout in the strict sense if they are prosecuted and fined and then are permitted to stay in operation. If, from the beginning, the prosecution has been launched but, on the contrary the registrar himself effects the cancellation, that's the end of the matter.

What I'm trying to say is that they may have the horse by the wrong tail. Ought not they to go forward with the prosecution and end the matter? If the prosecution stands then I think their licence would be severely in danger. If a real estate man commits an act of fraud and it is so heinous as to require criminal prosecution, then certainly he will have to come back and on the civil matter



stand before the tribunal and almost certainly have his licence revoked.

**Mr. Singer:** Can I take issue with that proposition? Once you take away a licence—be it a used car dealer or to run a hotel or any one of these other things—you are in effect taking away the man's right to earn a livelihood.

There are a whole series of things that we may not like that may call for a warning in a private conversation; it may call for a prosecution before the courts; or it may eventually call for the revocation of a licence—which in fact involves the taking away of a man's right to earn a livelihood. And the last step is to my mind probably the most serious one.

I have had occasion, several times, to go before the Liquor Licence Board where they have issued a show cause order, to argue that while the person against whom the order has been issued may have done something—permitted drunkenness or something—that he has reformed; he has got these new procedures in; it won't happen again, and that they shouldn't take his licence away. Most times I have found the board prepared to agree.

Surely it depends on the frequency and the seriousness of the thing. I don't think Mr. MacCormac is there to put people out of business—he is there to keep the industry on a reasonable level. And only as a last resort should he be initiating proceedings which remove licences. If he was removing hundreds of licences, I would be much more concerned. I think the idea of tempering the remedies available to any administrative board is a good one.

**Mr. Lawlor:** Would you think a tempering is lack of prosecution?

**Mr. Singer:** Well, it is a step. It is a much less serious step than saying "You get out of business." If it is repeated two or three times and the warnings have gone unheeded, then maybe the incidence of it is sufficient that the licence would be taken away—but not first crack out of the gun.

If somebody has tampered with an odometer or given a false representation or so on, I would be reluctant to put that man out of business until I was convinced that he had no intention of putting his business on a proper basis, and that all of the things we had done up until now had been no good; then finally we put him out of business.

**Hon. Mr. Clement:** The degree of knowledge of the alleged offence within the purview of knowledge of the owner is another

thing that they consider. Sometimes they are satisfied that, while a mechanic within the employ of the dealer may have done this, there is no connecting link that the dealer induced him to do it, or in fact encouraged him in any way expressed or implied.

And there is also the degree and the frequency to be considered as well as the economic sanctions. They don't just apply against the dealer only, but they have a very direct effect on his employees.

I was a recipient of a very impassioned letter from an employee of one of these firms that a tribunal took the licence from for turning back odometers in total over a million miles. The employee in that letter to me pleaded with me to exercise some discretion to reinstate it, so that he in turn would have employment. He spelled out why he needed employment. It is a very powerful tool within the hands of the registrar and must be exercised very wisely.

**Mr. Lawlor:** What did you do in that context?

**Hon. Mr. Clement:** I felt that in that particular one—because it is still sub judice—it is proceeding in the court of appeal—it would be most improper for me to do anything other than acknowledge the letter, be sympathetic to the writer, point out that it was still proceeding through the courts and it would be most improper for me to make any comment on it at that time. I really had no alternative.

**Mr. Chairman:** Mr. Lawlor.

**Mr. Lawlor:** Yes, I wanted one thing—

**Mr. Chairman:** You hesitated. I was almost going to call the vote.

**Mr. Drea:** I have a point on this.

**Mr. Chairman:** I don't want to rush you.

**Hon. Mr. Clement:** Pick up some clues.

**Mr. Lawlor:** We'll send Hansard into Osgoode Hall?

I think Mr. Deacon wants to handle used cars.

**Mr. Deacon:** In a case that came up this last year, I just wanted to find out about the reasoning. It involves a Mr. Kirk, a chap who was an agent between wholesalers. There was no provision under the present Act where he could act and yet this individual was definitely providing a service to the dealers.



There was, however, no way under the present legislation he could do so.

I don't know whether you recall the case, but he was finding cars for dealers. He wasn't dealing with the public. Because of the present legislation he's not allowed to work for more than one dealer as a registered salesman. I had seen him while investigating the situation. The man was doing a legitimate business and was providing a service to dealers. He has an unusual eye for vehicles and their value and dealers came to trust him. He was what you might call a dealer's dealer.

**Hon. Mr. Clement:** He was a broker for dealers was he?

**Mr. Deacon:** That's right. But under the licensing regulations we now have, there was no place for him. I would like to hear Mr. MacCormac's view on this.

**Hon. Mr. Clement:** I am not familiar with it, or at least I don't recall that particular case; and I would like to ask Mr. MacCormac to comment on that if he would.

**Mr. MacCormac:** I remember this man and it is a very delicate issue to bring up. We know a lot more about Claude Kirk than was disclosed in the newspaper reports. I know that it appeared from the way in which he was treated that we were overly harsh in depriving him of what appeared to be a very legitimate occupation of providing services for dealers.

**Hon. Mr. Clement:** I wonder, Mr. MacCormac, if you could generalize, in view of those comments, and not specify the individual and that sort of thing, if Mr. Deacon would accept it on that basis.

**Mr. Deacon:** It's the practice of the service that he was providing dealers, because there are two or three dealers, whom I would call reputable dealers, who said they found Mr. Kirk's service to be of value to them and found him to be reliable during the years. I thought that if someone is providing a service in that way and he isn't dealing with the public, but only with dealers, then he is providing valuable service.

**Hon. Mr. Clement:** Maybe Mr. MacCormac could answer in generalities—

**Mr. Deacon:** Right.

**Hon. Mr. Clement:** —what tests he applies and the criteria that he uses.

**Mr. Deacon:** At the brokerage level?

**Hon. Mr. Clement:** At the brokerage level. If you have any specific question dealing with that particular individual, I know he would be more than pleased to speak to you on that.

**Mr. Deacon:** I am not actually concerned about the individual. I am concerned about the system.

**Hon. Mr. Clement:** I just didn't want to embarrass the individual in any way.

**Mr. Deacon:** Yes, and I would appreciate finding out more about him after.

**Mr. MacCormac:** In 1965 when the Act was proclaimed, we did make a distinction between those persons who were dealing directly with the public and those who were wholesalers. We found upon investigation, and following a number of complaints that we received, that this policy needed clarification. The Act only mentioned used car dealers. It made no distinction as to whether they retailed their products or wholesaled them. By and large, there were a number of fringe operators operating as so-called wholesalers using what we call a broker's licence, which meant that they didn't have to have a lot, a sign and an office. These were what we termed the gipsies in the business. Because of these abuses we had to backtrack.

We learned a lot in the first year. We decided that we couldn't change our procedures. We had to require everybody to come out into the open and hang up a shingle so that the public would know whom they were dealing with. We also required, and the Act so states, that no salesman shall work for more than one dealer. That's the way the Act has been applied.

**Mr. Deacon:** I understand that, but I am also wondering why the same sort of controls that apply in the securities business do not apply here. I am trying to think if there are any that are not licensed to deal with the public at large. Is that something you cannot control? Isn't it possible to have it where a person, if he does contravene the Act by dealing with the public, loses his wholesale licence right away? I can't see why the fact that they may have dealt with the public and abused the privilege wouldn't mean that they lose their licence. Why would we have to change the provision which made it possible for a person to be a wholesaler as between dealers?

**Mr. MacCormac:** Almost every dealer, particularly the franchised dealers, wholesale a portion of their products.

**Mr. Deacon:** That's right.

**Mr. MacCormac:** You might say that dealers do retail and wholesale. They hold a registration under our Act and we don't recognize the distinction. We don't attempt to tell them that they have to sell this way or that way. If they are acceptable for registration we issue it, and how they conduct their business, as long as it is within the law, is their concern.

**Mr. Deacon:** For example, if there is a person who they find is a source of good vehicles for them—he goes to auctions or goes to other places where the vehicles are available. There isn't enough business for them to have such a man employed by them exclusively. If he works for several, what is the difficulty as long as that person is operating under a licence? If he deals directly with the public at any time, he is then not allowed to act in this manner.

**Hon. Mr. Clement:** Can't he get licensed? Why can't he?

**Mr. Deacon:** The difficulty here is that if he were this type of person, he would have to be working for one person in order to get licensed, I understand.

**Hon. Mr. Clement:** No, he could obtain a licence. He has to comply with the regulations, obtain a lot.

**Mr. Deacon:** This is the question. He has to have a lot. He has to get all the overhead that he doesn't really need because actually he is just finding vehicles for the different dealers. He is going to auctions. He has different dealers who are interested in getting the cars he picks and he wants to be doing that legitimately for different dealers.

**Hon. Mr. Clement:** But he doesn't want any fixed place of business?

**Mr. Deacon:** He doesn't need a fixed place of business because he never handles the cars.

**Hon. Mr. Clement:** I guess he is one of those described by Mr. MacCormac as a gipsy.

**Mr. Deacon:** In effect, you might say he is a gipsy. We don't use the word "gipsy" with people who do this type of work in other businesses. I should have thought of

some of the other ones where you do have this sort of trade person.

I suppose you get a certain amount of it in the cattle business because we had it in the purebred cattle business. There were certain people and if they went to sales, we would say they can buy and go up to so and so for us. We trusted their judgement and they would be acting as agents. They had a reputation for being good buyers and knowing value, and they worked for different people. You never knew who they were bidding for.

**Hon. Mr. Clement:** I am not quibbling with your point but what concerns me is when someone is holding themselves out to do business, it always indicates, certainly to me, that there should be a certain permanency in the area, a fixed place of business and this sort of thing. If we created a class—we won't call them gipsies because I don't find that term particularly commendable—if there were a class of itinerant car salesmen acting as brokers with no fixed place of business—

**Mr. Deacon:** Well, say they had a fixed place of business but it is an office? It isn't a lot; it is just an office?

**Hon. Mr. Clement:** Yes. The only thing that would concern me is that they would be here today and gone tomorrow. The fact that we have licensed them—

**Mr. Deacon:** You could have a bond if you were concerned about that. You could cover that.

**Hon. Mr. Clement:** They would have to be bonded because if someone was harmed and couldn't locate them and they had gone, by the fact that they had a licence, we would be sanctioning this type of practice, in effect.

**Mr. Deacon:** I would go along with that but I feel we could protect ourselves. We could cover that by bonding or by different means so that there is an office. There is a place where we can reach them, a way we can reach them if they have contravened the regulations.

I don't feel that it should be necessary for them to have a used car lot if they don't ever handle a car. Any more than Johnny Miller, who used to do a lot of cattle buying, needed to have a barn to do the cattle buying for us or the others he bought cattle for. It is just a matter of certain



people who have skill or judgement in these matters.

I cannot see why we can't make provision for that type of entrepreneur and protect ourselves. All I'm saying is that if he contravenes the Act and we have a sufficient hold on the man, then he's going to be losing something if he doesn't beat the—

**Hon. Mr. Clement:** The bonding might be the key to it, Mr. Deacon.

**Mr. Deacon:** Right, but I would ask you to take a look at that, because I'm not going to make any judgement on the individual who I referred to initially. I just felt that the practice makes sense.

**Hon. Mr. Clement:** Why did we have difficulty in controlling this type of person before, Mr. MacCormac?

**Mr. MacCormac:** Well, Mr. Kirk, who's the person that Mr. Deacon is talking about, as I say, is a person who we have—

**Hon. Mr. Clement:** I want to keep away from any individuals. But as far as the licensing of gypsies is concerned—as you describe them—as I understand it, there was difficulty in maintaining control over this class of individual.

**Mr. MacCormac:** We just couldn't maintain the control, Mr. Minister. We have only 12 inspectors to cover the whole province, and we would have to wait for a complaint. By the time we'd got a complaint and we went to investigate it, this gypsy was no longer around.

**Mr. Deacon:** But if we did have the bonding provision, he would have a place of business, and the complaint would be coming from a dealer, because after all he's not dealing with the public.

**Mr. MacCormac:** May I speak to that, Mr. Deacon? First of all let me say we don't any longer bond salesmen. The bond itself, as it was written into the regulations, was only a more apparent protection, rather than a real protection. For it wasn't a very simple matter to get at the proceeds of a bond.

In order to get at the proceeds of a bond, we were tied to three different methods: One, we had to get hold of the person and charge him and convict him under the Act. Then we could require the insurance company to forfeit the proceeds. We could charge him, or, his bond would be forfeit if he had been charged for an offence under

the Criminal Code for fraud or theft. The third way in which we could forfeit the bond was if the man made an assignment in bankruptcy or a receiving order was made against him.

It we couldn't find this man, even though we'd got a complaint and the public had suffered a loss, if we couldn't charge him; if there were no proceedings against him under the Criminal Code; and if he made no assignment in bankruptcy, we were powerless even to obtain relief through the measures of the bond.

**Mr. Deacon:** With all the clever lawyers we have in this province, I find it difficult to believe that we couldn't work out a way that, if a man deposited a \$10,000 government of Ontario bond or whatever it happened to be, that would make it possible for us to seize in this sort of situation, but maybe this is something the lawyers can't figure out. But if there is a good business here and somebody's making money, and it's worthwhile for them to make money, I think we should have a way of controlling them. But I think we—

**Hon. Mr. Clement:** I don't think we should make available the services of a government lawyer to track down a very small group of people who may or may not breach the Act. If it was a cash bond, or a negotiable bond, that's one thing as opposed to a surety bond put up by a bonding company.

**Mr. Deacon:** Well, I think it would have to be a cash bond. A thing which you hold.

**Hon. Mr. Clement:** If you impose on these people this particular term of a cash bond, I suppose they might say, "You're discriminating against me to put up cash."

**Mr. Deacon:** It's a privilege, it's not a right. This is something that's a privilege and they've got to meet conditions to gain that privilege.

**Hon. Mr. Clement:** Apparently there has been difficulty. It has been explored. I'm not that familiar with it, although I have one instance—

**Mr. Deacon:** I wonder whether we've really explored it with—

**Hon. Mr. Clement:** But we could look into it further and see. I don't know how many individuals are going to be involved.

**Mr. Deacon:** There aren't very many. But some of the dealers I know who are good



responsible dealers have said there's a good area of service that can save us having somebody, an agent, going off to sales here and there. People who are skilled in this business—

**Hon. Mr. Clement:** I can solve it. We'll have those dealers go surety for him on the bond.

**Mr. Deacon:** That would be one way of doing it.

**Hon. Mr. Clement:** Sure. That would solve that.

**Mr. MacBeth:** How many of them would go?

**Mr. Deacon:** Oh, a cash bond would be just as good.

**Hon. Mr. Clement:** You would soon find out who your friends were, wouldn't you?

**Mr. Deacon:** A cash bond would be just as good.

**Hon. Mr. Clement:** Well, they could put up the cash.

**Mr. Deacon:** Or if he can.

**Hon. Mr. Clement:** Or if he could.

**Mr. Deacon:** That's right. Thank you.

**Mr. Lawlor:** Mr. Chairman, as I say, there are a number of items. We will begin with franchising. Maybe we won't quite cover the subject.

First of all, in the franchising field, I think the general heading to the paragraph would be, "whatever rises must converge." It is happening now in a country abroad and with you—in particular, with the Competition Act, on one side federally—with franchising legislation in the offing, with a Fair Practices Act that has been promised, I think, yesterday—it is under consideration—and with the warranties and guarantees proposals which are also floating in some nether limbo at the moment, germinating in a green paper upon which the minister is presently sitting. It seems to me if you pass any one of these pieces of legislation that pretty well the whole field is going to be covered. The federal government first introduced the Competition Act and we will come to it before we are through this evening, I trust.

Certainly the minister seems to cover the waterfront with respect to a whole host of matters—the whole restriction of trade and business, of few and unfair competitions, terminations and non-renewals, restrictive

covenants, restricted geographical uses, the control of patents and the use of patents, tied selling of all kinds.

You are going to have the nice job of segregating out and not overlapping in area after area of these various jurisdictions. As I say, whatever rises must converge and in some way you are going to have to come together at some focal point. A very nice operation is going to have to be undertaken in this regard.

I will come back to the franchises in a moment. As far as pyramid sales and referral selling are concerned, you were prompt, celerius and even dashing in bringing in the legislation—

**Hon. Mr. Clement:** I can't take credit for that, sir. My predecessor was celerius and even dashing with that one.

**Mr. Lawlor:** It was sitting there. It was sitting over the burner and the eggs were almost fried at the time you arrived.

How is the scrambling going on? How many registrations are presently with the registrar and what number have been disapproved and turned down? And what's the score on pyramid selling as things stand?

**Hon. Mr. Clement:** There are none as of this time fully registered and licensed with the registrar. He is here with us today. Mr. Brown, would you like to come forward and describe some of the great activities being introduced to the people of this province?

This is Mr. Paul Brown who was with us, I believe, Tuesday evening when we touched on certain areas of his activities with the ministry.

**Mr. Lawlor:** How do you like your eggs—poached, fried, scrambled?

**Mr. P. Brown (Pyramid Schemes):** The question was, what have we done with pyramid selling? There hasn't been a pyramid seller in the province with a qualified prospectus under the Act.

**Mr. Lawlor:** How many have you turned down? How many have applied?

**Mr. Brown:** Eight or nine have applied, but three have left the province. We have got six pending right now which we are dealing with.

**Hon. Mr. Clement:** Mr. Brown, I think you might be doing a service to all of the people in this province if you just read off the names of those who applied and those who

are pending. These names may come across to us, or strike our attention some time in the future, or already be known to us, and not be recognized as possible pyramid sellers.

**Mr. Brown:** Bestline Products of Canada Ltd. has applied. Golden Canada Products Ltd. has applied.

**Mr. E. M. Havrot** (Timiskaming): I didn't catch that name.

**Mr. Brown:** Golden Canada Products Ltd. Holiday Magic Ltd. has applied.

**Mr. Lawlor:** And disapproved?

**Mr. Brown:** No, we are dealing with the prospectus right now. Willex Cleaning Products and Swipe Products Canada Ltd. have applied.

**Mr. Havrot:** Swipe the money out of your pocket.

**Mr. E. W. Martel** (Sudbury East): Sounds like SWEEP, the government's programme.

**Mr. Brown:** Viviane Woodard Cosmetics Ltd.; Trend Line Promotions Ltd.; and we have some information on Royalite Chemical Corp., Pioneer Laboratories of Canada Ltd.—those have applied. The rest have left the province, changed their programme or are still in process.

**Mr. Lawlor:** And the pending?

**Mr. Brown:** Six or seven are pending right now.

**Mr. Renwick:** And are they being actively processed?

**Mr. Brown:** Yes, Bestline, Golden Canada Products, Swipe Products, Steed Automotive Industries—that's one I didn't mention before—Holiday Magic and Viviane Woodard.

**Mr. Lawlor:** While you are pending, do these companies continue to carry on operations?

**Mr. Brown:** They have, yes. If we have had any complaints from investors, in most cases we have been able to get the money back.

**Mr. Lawlor:** When was the first application made among those which are pending? How long ago?

**Mr. Brown:** Through application or contact? Some companies came in and saw our current scheme and refused to comply.

**Mr. Lawlor:** When you say contact, do you mean your contact or their contact with you?

**Mr. Brown:** In some cases—for instance the Dare To Be Great schemes, that were convicted under the Criminal Code, contacted me on the first day I was appointed, June 16. That was the last we ever heard of them. We tried to contact them but they wouldn't answer.

**Mr. Lawlor:** How long, for instance, has Holiday Magic been kicking around?

**Mr. Brown:** Kicking around? Let's have a look.

**Mr. MacBeth:** You are trying to take all the opportunity out of this province of opportunity!

**Mr. Brown:** July, Mr. Lawlor.

**Mr. Lawlor:** There are still opportunities for any renegade. You still are fond of the robber barons.

**Mr. MacBeth:** They had some good points.

**Mr. Lawlor:** He thinks Andrew Carnegie was the greatest man who ever lived.

**Mr. Martel:** The robber baron had some good points? I'm still trying to discover what they were.

**Mr. MacBeth:** They were kind to the literary world!

**An hon. member:** Mr. Havrot thought it was the rubber barons you were talking about.

**Mr. Martel:** He's got something else in mind though.

**Mr. Brown:** Holiday Magic was in the middle of July—about a month after the others. There is a lot of work to be done with prospectuses.

**Mr. Lawlor:** If the Securities Commission had all that trouble, it would never get a company floated.

**Mr. Brown:** Yes. The Securities Commission has more people than I have.

**Mr. Lawlor:** I see.

**Mr. Martel:** Do you have a one-man brigade over there?

**Mr. Brown:** I'm it.

**Mr. Renwick:** Is it possible to get qualified?

**Mr. Brown:** Sure it is possible.

**Hon. Mr. Clement:** There was one I believe, Mr. Brown, that you had some concern about. Did they not post with you a letter of credit, an unconditional letter of credit, issued by a chartered bank for some \$100,000?

**Mr. Brown:** That's true.

**Hon. Mr. Clement:** This was pending the completion of the filing of the prospectus.

**Mr. Brown:** Golden Canada Products.

**Hon. Mr. Clement:** Was it Golden Canada Products?

**Mr. Havrot:** What do they sell?

**Mr. Brown:** They promote cleaning products, basically; chemicals.

**Mr. Martel:** They have some real gimmicky, too.

**Hon. Mr. Clement:** I think the problem here, gentlemen, is we are going to have to make a decision insofar as pyramidal sellers are concerned. We are either going to have to expand the operation very substantially—the investigative work is time-consuming; it's detailed work—or consider a statute repealing the existing legislation and absolutely prohibiting pyramidal selling within the province. I think those two lines have to be drawn.

It was the opinion, I am advised, of the law officers in certain provinces that it was a matter of civil jurisdiction and not within the purview of the Criminal Code. That view has been somewhat altered in the last year or two.

I understand there has been at least one prosecution completed, if not more. There is a series of prosecutions in the Province of Quebec, not only against the corporation itself but against the distributors or the individuals who undertook the sales of the product and the franchises. That case, as I understand it, has not yet been dealt with by the criminal courts in that province. But I think that in the next year or so that there is going to have to be a decision made either to expand or we prohibit.

Here are the convictions—you may be interested. The convictions: Koscot and Dare to be Great were convicted in Alberta, New Brunswick, Quebec and Ontario. Golden Canada was convicted in Alberta and there is an appeal pending; Golden Canada in Ontario has been charged. The trial is fixed for this September. Holiday Magic has been

charged in Quebec, with the trial set likewise this autumn.

There is a note here on the report of the registrar that these investigations under section 189, subsection 1, of the Code, clause (e) take approximately one year from the time of the trial. The police investigations of Golden home products and the Ontario companies—that is your Koscot and Dare to be Great deals—have cost the province approximately \$75,000 for investigation.

I should say that Koscot Interplanetary is not unknown to governments in eastern Europe. I had occasion to discuss Koscot at some length with Sir Geoffrey Howe, the British cabinet Minister of Trade, who is also Consumer Minister in the UK.

I would like to draw this to your attention because I think we are all learning over the brief period the Act has been in force. From June 16, 1972, to the end of December, 1972, the registrar received 85 complaints and 554 inquiries. To date, redress to these investors as a result of the activity of the registrar, has resulted in the sum of about \$70,000 being returned to potential investors, and for that period of time from June 16 to the end of the year of the administration of the Act, it cost the province slightly less than \$20,000. So there has been a real service provided for the people of this province.

**Mr. Renwick:** What is the batting average?

**Hon. Mr. Clement:** What is your batting average on these complaints? Do you obtain redress in half or quarter or 10 per cent of them—approximately, Mr. Brown?

**Mr. Brown:** I would say with the companies that are left now, excluding Koscot and Dare to be Great, a 95 per cent batting average.

**Mr. Deacon:** Good show.

**Mr. Brown:** The companies are co-operating, the ones that are left. They can't afford not to at this stage.

**Mr. Lawlor:** Well, the natural proclivity of the previous minister working under the surveillance of John MacBeth was to keep them in operation at all costs.

**Mr. MacBeth:** We believe in free enterprise.

**Mr. Lawlor:** I just have another personal interjection to make at this point. Mr. Brown was successful in returning I think practically \$700 to somebody along the Lakeshore Rd.



as a result of certain overtures that I have made in this regard, and now I am a hero on that particular section. The only difficulty, I want to report to the minister, is that he is not in my riding and can't vote for me.

**Mr. MacBeth:** Could he vote against me?

**Mr. Lawlor:** Could we knock off now?

It being 6 o'clock p.m., the committee took recess.

## CONTENTS

---

Thursday, May 17, 1973

Commercial standards programme, continued ..... S-449

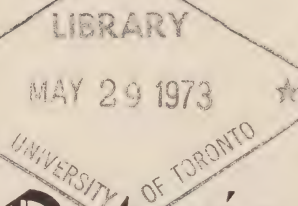
Recess ..... S-483











# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

---

**Thursday, May 17, 1973**

**Evening Session**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 17, 1973

The committee resumed at 8:05 o'clock p.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1302:

**Mr. Chairman:** Mr. Lawlor, I was wondering if we could continue? You had some questions you wanted to ask the minister. Maybe we could start with you.

**Mr. P. D. Lawlor (Lakeshore):** Certainly. Thank you, Mr. Chairman.

We were on franchises before the break, if that's what you call it, but before proceeding with that I just want to mention what the minister has to say about lemons.

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** Lemons?

**Mr. Lawlor:** Yes, lemons.

**Mr. Chairman:** That is the Ministry of Agriculture and Food.

**Mr. Lawlor:** The minister seems to think he's got jurisdiction over them.

**Hon. Mr. Clement:** Lemons? You mean they come up in three windows and you get three lemons?

**Mr. Lawlor:** You go around the countryside making speeches. This is to the Peel South Progressive Conservative Association on Jan. 10; in Port Credit; lemons!

Interjections by hon. members.

**Hon. Mr. Clement:** I wouldn't remember that. My memory goes back for about a week to when we started the estimates. It seems longer to me.

**Mr. Lawlor:** You're very fortunate in having such a foreshortened memory if you make speeches like this.

**Hon. Mr. Clement:** Yes!

**Mr. Lawlor:** I must say the bulk of the speech is taken up with avid—I think that's the word — overwhelming praise of Mr. Douglas Kennedy and the magnificent role he played. Why, you make Charlie MacNaughton look like a junior clerk around here even at the best of times, as compared to him.

**An hon. member:** That's exactly what I expected.

**An hon. member:** Yes.

**Mr. Lawlor:** In that speech you are talking about lemons—meaning used cars. You say:

Second, I think we must accept the fact that these binding promises should include all the statements of performance made in advertising and in sales promotion literature, as well as warranties and guarantees.

I am reading this because I find it sweeping and for that very reason, I suspect, commendable.

Thirdly, and finally, we must also ensure that the responsibility for meeting a consumer's complaint rests squarely with those who make the promise in the first place—with the manufacturer, retailer or distributor. All too often in the past responsibility has been shifted from one to another with the consumer as the loser.

That's true too. On that second one, what I wanted to ask you about was—first of all, I want to ask you if you really believe what you say?

**Hon. Mr. Clement:** I can't even remember the speech!

**Mr. Lawlor:** You can see how broad it is.

**An hon. member:** You spoke extemporaneously that night, didn't you?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** It says, "Should include all statements of performance made in advertising and in sales promotion literature, as well as warranties and guarantees."

I think that is the way in which you are going to have to cast your legislation, not specifically in the warranty field — which I don't think I am going to dwell upon greatly in these estimates because we will have other occasions very shortly to do that—but in the false advertising field.

You come down on this business of when the consumer sues the retailer for statements made. The poor devil, the retailer, holds his hands akimbo, looks straight over the top of the customer's head and says: "That's the labelling." Then the fellow is driven from that post saying: "I suppose I have to sue whoever put the label on." He sets off on a wild goose chase to discover that. It may be the distributor; it may be the manufacturer.

The manufacturer denies liability because he has made a special deal or arrangement with his retailer in turn; and it goes on the merry-go-round, which for most people isn't very merry at the end of the day. They are a darn sight poorer and certainly none the wiser, probably a good deal more ignorant, and with a feeling of total frustration, which turns them against their children, their wives, their dogs and the minister in charge of the matter in a very personal way so that he has to keep his log-books under cover.

In that third one, how do you handle the parole evidence rule under that particular head if you are going to try to settle the responsibility where it actually belongs? How do you see that problem?

**Hon. Mr. Clement:** You recall very well, I am sure, the recommendations and comments contained in the Law Reform Commission's study.

**Mr. Lawlor:** I read that two days ago. I can't remember it but go ahead. Talk about a short memory!

**Hon. Mr. Clement:** You don't remember it today?

**Mr. Lawlor:** I am ready; go ahead.

**Hon. Mr. Clement:** If I thought you didn't, we'd get through my explanation a lot sooner.

**Mr. Lawlor:** You do the best you can under the circumstances.

**Hon. Mr. Clement:** The recommendation made by the Law Reform Commission, and I am simplifying it, is that you go to the ultimate man or individual or corporation which sells it to the purchaser.

I may add, I made some extemporaneous comments on that particular occasion, pointing out to the people assembled at that meeting—which as I recall numbered several hundred, because it was a Progressive Conservative meeting—

**Mr. Lawlor:** You were in friendly territory.

**Hon. Mr. Clement:** At that time I thought I was.

**Mr. Lawlor:** You couldn't be sure, could you?

**Hon. Mr. Clement:** I pointed out it's a question of cost. The Law Reform Commission did not deal with cost because it was not within its field of responsibility or study. When you legislate warranties or guarantees into a very low-cost consumer product, the cost of the warranty or the guarantee may well supersede the actual cost of the product. When you do that, you lose the effect, in all probability, of the advantage that you are trying to provide to the consumer. I added that as a rider because I've talked on several occasions about this very subject and this has been a matter of great concern to me.

We haven't got into meeting in any depth with people in the manufacturing industry and so on. If we are going to start, by statute, laying responsibility and making the retailer, in effect, an insurer of every product he sells, he is going to lay that risk off on the shoulders of an insurance company which is going to charge him a premium which is going to be included or added to the cost of the consumer product.

I am not being facetious when I tell you I've had one or two letters brought to my attention since I have been with the ministry whereby someone has complained about the quality of a clothespin and what are we, as a government, going to do? Are we going to marshal our forces and get out and get after that manufacturer?

Obviously the person was annoyed because of the inferior performance of that particular article but you get into the question of practicality. Are you going to spend \$10,000 of the taxpayers' money to bring that manufacturer before a court, civil, criminal or otherwise? This is why the whole question of warranties and guarantees has to be done extremely carefully and extremely responsibly because we may end up creating a monster with which the consumer just won't be able to live.

**Mr. Lawlor:** You can put a drop of adrenalin in the monster and render him formidable, but, at the same time pygmy, if you would take a little time out to read Michael Trebilcock's article in the Canadian Consumer of June of this year—how can it be June? Anyhow the head of this is "Consumer Class Action." I am sure the minister knows about it.

**Hon. Mr. Clement:** I have not read the article.

**Mr. Lawlor:** You will come to it eventually.

I think on the business of penetrating the web, the Donoghue and Stevenson case, with respect to manufacturers in the field of tort liability and leaving snails in bottles, set the precedent, in 1936, if I remember. Since then the cascading law and subject has more and more opened the way to clear away the privity notion and to make it possible to get at the root of the matter, whereby you can attack the person who is primarily responsible for making the statement in whatever form.

That is certainly necessary. The questions of costs and procedures you can read about elsewhere. Before the evening is over we'll meet that elsewhere in the competitive practices tribunal proposed by the federal government under its Act, whether or not it stays in that particular Act, or whether you have a comparable tribunal—though I doubt it—whereby arbitrament is the rule instead of adversary litigation. This latter is the thing that really costs the money. Through a tribunal, a speedy, an inexpensive procedure is set up whereby rectification of contracts can be made.

We can subsequently discuss the apparatus you use with respect to enforcement, and this article specifically. It says at the beginning that all kinds of consumer legislation is coming into being. There is a plethora coming from all directions and on the whole, it is all to the good. It is in my opinion no wise detrimental to the best interests of the private enterprise system; and those who support it will support this stuff.

As a matter of fact, in this wretched speech of yours you go to quite some lengths in this particular regard, saying: "Oh, look at those bedizened socialists; how they stand tongue-tied and appalled before the magnificent moves that we are making as incursions into a consumer economy!"

**Hon. Mr. Clement:** I remember saying that!

**Mr. Lawlor:** You remember saying that? You didn't quite say it that way.

**Hon. Mr. Clement:** Oh, I bet I didn't. I wish I had.

**Mr. Lawlor:** You would have spared the Peel Progressive Conservative Association a certain amount of bedazzlement. It won't do them any harm, I suspect.

**Mr. E. W. Martel (Sudbury East):** Something like the letters he writes.

**Mr. Lawlor:** Just let me return to that for a moment. You don't often wax political, I trust. You are much too balanced and sane an individual to be caught on the far left of the political spectrum. There would no doubt be people who are surprised at the progressive nature of these and other measures.

**Hon. Mr. Clement:** That was not directed to you.

**Mr. Lawlor:** God help us! You must have been speaking to Doug Kennedy almost personally.

**Hon. Mr. Clement:** I think his wife was there too.

**Mr. Lawlor:** His wife was there. She probably, like Mrs. Mitchell, nodded her head.

I say you have indicated during today—and possibly on other occasions—but I particularly paid attention today—that you anticipate introducing the legislation, possibly in the fall, you know before—

**Hon. Mr. Clement:** We will be filing a green paper with the House before it rises. I made some reference to that last November.

**Mr. Lawlor:** The paper on warrants will also cover franchises?

**Hon. Mr. Clement:** No, no; I'm sorry, warrants and—

**Mr. Lawlor:** Another green paper?

**Hon. Mr. Clement:** No; warrants and guarantees only!

**Mr. Lawlor:** Yes. What about franchises? I appreciate, Mr. Minister, that this is a more intricate and trying field than the one on pyramid selling. I think it is really more difficult to deal with and the implications of it are far broader than the pyramid selling game, but the delay, even from the point of view of an opposition member who always



squirms under delay, is becoming somewhat elongated, don't you think? You have had this report in your hands a good long time; since July 1971—

**Hon. Mr. Clement:** The franchise legislation?

**Mr. Lawlor:** No, only the report, I mean.

**Hon. Mr. Clement:** I anticipate that in all seriousness we shall be introducing a Franchises Act before the end of this calendar year. In terms of priority, I think the most monumental legislation to be introduced out of all we have been talking about will in all probability be the warranties and guarantees legislation. The ramifications of that report of the Law Reform Commission are just tremendous. We have to be very cautious on that legislation, or as I say we are going to create a monster we may not be able to live with in terms of cost.

**Mr. Lawlor:** You have had considerable experience in other jurisdictions. I don't think your proposed legislation is any more—

**Hon. Mr. Clement:** I don't think there is any more—

**Mr. Lawlor:** Warranties and guarantees legislation is not unique!

**Hon. Mr. Clement:** All-inclusive. Not all inclusive!

**Mr. Lawlor:** I submit to you on that. Not all that long, so that perhaps the testing period as to its efficacy hasn't really been tried out in the other jurisdictions.

The social benefits on which you prate and plume yourself in any number of speeches, which we happened to have corralled here and which I won't quote back to you tonight; there are certain points of embarrassment to which, even as an opposition member, I do not think I can subject the minister, particularly a minister as pleasant as you are.

**Hon. Mr. Clement:** I am eternally grateful for your consideration.

**Mr. Lawlor:** If it had been the former Treasurer of this province (Mr. MacNaughton), then I would spend the rest of the night on it. Any degree of racking that could take place is all to the good.

Have you noticed he has lost weight? He used to gain weight on abuse. Now he's not being abused any more—sitting up there with the minions of the racing profession, and he

may even go out in the morning at five o'clock and get on top of a stallion.

**Mr. Martel:** I understand that he hasn't lost his temper once.

**Hon. Mr. Clement:** He was always known as a quick starter.

**An hon. member:** May I ask you one thing, if that's in this item?

**Mr. Lawlor:** We can josh with Charlie a few minutes. Life is too short not to.

**Hon. Mr. Clement:** Would you like to move over to the racing commission?

**Mr. Lawlor:** No thanks. We'll come to that in due course.

All right. You feel that we will have it fairly soon. If you cast the warranties field properly you will preclude a great many things that are already contained in the franchise field, as I—

**Hon. Mr. Clement:** So will that Business Practices Act we were discussing, I believe on Tuesday. We may net a lot of practices with those two pieces of legislation.

**Mr. Lawlor:** That's what I think too. And therefore perhaps the pressure isn't as great, but we will abide the event and see just how far-reaching your legislation on warranties really is and to what extent you cave in before the various industries. By the way, you did pay particular attention in franchising to what they had to say about the oil companies?

That is a particularly iniquitous business. I mean Becker's is a small-time operation compared to what they have to say on page 46. "It's interesting that the Alberta legislation effectively excludes any regulation of the oil industry." Could we have thought that it would include them? I mean by any stretch of the righteous imagination!

**Mr. Martel:** They don't even tax them!

**Mr. Lawlor:** They don't either; they tax Ontario and give it back to them.

**Mr. Martel:** Five to one.

**Mr. Lawlor:** That's right. "And here it excludes any regulation of the oil industry by exempting large corporate franchisers." Hooray!

We are firmly of the view that there's some guts, some intestinal stuff, in some of these reports we get from time to time. "We

are firmly of the view that the oil industry should not be exempted from the legislation," and when you bring it in—

**Hon. Mr. Clement:** Is that another one of my speeches you are reading from?

**Mr. Lawlor:** We will see what your speeches say in the fullness of time.

**Hon. Mr. Clement:** It sounds just like me.

**Mr. Lawlor:** I want to turn, if I may, for a moment—

**Mr. J. A. Renwick (Riverdale):** Just on the franchise matter, are there any specific matters which can be publicly disclosed that are causing the delay in the franchise legislation?

**Hon. Mr. Clement:** No, I don't really think so, Mr. Renwick. In all fairness, when I got my feet somewhat firmly on the ground over there and had a look at some of the matters, I took the position that while it was a very important piece of legislation, in terms of priority it wasn't at the top of the list. Therefore, I relegated it to a somewhat secondary position and got on with other things, like the consumer reporting bill—

**Mr. Renwick:** Do you mean complaints have been dying down in that area? Have there been—

**Mr. D. M. Deacon (York Centre):** They are going out of business so fast, it's not worthwhile—

**Mr. Renwick:** No, I am thinking about the traditional franchise arrangements.

**Hon. Mr. Clement:** I don't think we have had a great volume of complaints, but that is no reason to abandon the legislation. I wouldn't abandon it on that basis at all.

**Mr. Renwick:** I can understand that, but it might affect your sense of priority.

**Hon. Mr. Clement:** Oh, I think it probably has affected my sense of priority. I think that is a fair statement.

**Mr. Lawlor:** His sense of priority is easily affected.

**Mr. Renwick:** I don't know whether we should have a special category for legislation we are awaiting, but if this item in the estimates deals with delayed legislation, I have another one—but perhaps this isn't the appropriate time.

**Hon. Mr. Clement:** Which one?

**Mr. Renwick:** The law that was forecast by your predecessor in October of last year to protect the buyers of new homes.

**Mr. Deacon:** I was going to bring that one up too.

**Mr. Renwick:** It seems rather a coincidence that on October 13 your predecessor spoke to the Housing and Urban Development Association of Canada, and on October 4 your federal counterpart, the Hon. Ronald Basford, told the Canadian Real Estate Association that he was working out some new form of national home warranty. I wonder whether the minister has given that any priority and whether it is a matter that is being proceeded with?

**Hon. Mr. Clement:** Yes, first generally and second specifically. We have 26 pieces of legislation on our work tables right now, and this is one of them.

Recommendations for housing standards were prepared by a committee known as the Carrothers committee. As far as I can recall, the committee made its report some time in November last; it was referred immediately to the municipal liaison committee, which as you know is made up of representatives of municipalities—I don't know how many people are on it, but I would estimate 18 or 20 people.

This is the area to which it should be directed in view of the method of anticipated enforcement; that is, at the municipal level, as is done now through local building inspectors. The report has not come back from that committee as of this date, because there have been certain difficulties that the committee has run into.

One of my predecessors, I know not whom, indicated when the study was commenced that it would be about 1975 that this legislation would be brought into effect. My immediate predecessor indicated that could be moved ahead to a period some time in late 1973. And, to be completely honest, I would think that even if we got it back in our office tomorrow from the municipal liaison committee, I think I would lean more to late 1973 or early 1974 to be practical on the thing.

**Mr. Renwick:** When do you think the report will come back? Do you actually know when it will come back? Is it still a long way off?



**Hon. Mr. Clement:** No, I don't think so. I have a clipping that I took from the press some time ago—I think you mentioned it in your comments—which stated that the federal people have indicated a move in this particular direction. But I don't want to sit back and abdicate any position we might have by waiting for that, because that might be four years in the offing—I don't know; nobody has confided that information to me.

As far as I am concerned, I have directed my technical standards director and the people in our ministry who are overseeing this thing to get on with this as soon as it comes back and to get it ready for legislation.

**Mr. Renwick:** What would the previous federal minister mean when he said—

**Hon. Mr. Clement:** The previous federal minister?

**Mr. Renwick:** Yes, Ronald Basford—not when he was Minister of Consumer and Corporate Affairs, but when he was Minister of State for Urban Affairs. He said: "One of my earliest steps will be to complete the work now in progress and institute a national system of new home warranties." What he is talking about seems very imminent, and yet it seems to me to be a tremendous job to work out a national system of home warranties in a field where their jurisdiction would be very doubtful in the first place.

**Hon. Mr. Clement:** Our people have been working with them on that. Our recommendations at the provincial level deal more with specifications and standards as opposed to warranties and guarantees. It would seem to follow, therefore, that the proposed legislation dealing with warranties and guarantees would either deal specifically with homes or the Act dealing with the specifications would include a section dealing with warranties and guarantees.

My understanding initially was that the federal people were dealing with the warranties and guarantees aspect, but they have since announced, according to the clipping I have, that they are now concerned with matters of standards. As I recall, our study and the recommendations of the Carrothers report deal almost 100 per cent, I would say, with matters of specifications and standards.

As it is right now, each municipality—

**Mr. Renwick:** Do you mean in the Carrothers report?

**Hon. Mr. Clement:** Yes.

**Mr. Renwick:** When the Chairman of the Management Board (Mr. Winkler) made this statement, he said there would be requirements for a prospectus for subdivisions with more than five homes; a building inspector to sign a certificate that a house meets acceptable standards before the new owner takes over; a system of licensing building contractors and subcontractors; more flexible zoning to permit a broader mix of housing types and new land-use concepts; provincial standards for building materials and building methods; and requirements for standard sizes of building materials to facilitate mass production.

That listing by the minister seems to deal with a number of conceptual fields, not all of which can possibly go into a single piece of legislation.

**Hon. Mr. Clement:** Our study was primarily on the basis of uniform building standards.

**Mr. Martel:** It has been coming for two years at least.

**Hon. Mr. Clement:** Oh, it is longer than that.

**Mr. Lawlor:** That is the only thing the present Minister of Government Services (Mr. Snow) ever used to talk about.

**Hon. Mr. Clement:** Uniform building standards.

**Mr. Lawlor:** That was six years ago.

**Mr. Martel:** That's right. He got his first promotion by that route.

**Mr. Lawlor:** That's right.

**Mr. Martel:** A lot of people are being shafted in the meantime.

**Hon. Mr. Clement:** Well, when they get the law—

**Mr. Martel:** Yes, but what about those people who have been affected?

**Hon. Mr. Clement:** Well, obviously we can't make it retroactive.

**Mr. Martel:** You can bring it in.

**Hon. Mr. Clement:** Well, we could put it in the law and say this is the law.

May I suggest that when we get into the estimate on technical standards, we have with us the director of technical standards. He has been working very closely with the



Carrothers committee, and doing municipal liaison. He is Mr. Harry Yoneyama. I think he can give you the background dealing with the uniform building code legislation.

**Mr. Renwick:** The uniform building code is one thing; a warranty or something in the nature of protection to a buyer of a home is quite a different matter, isn't it?

**Hon. Mr. Clement:** I agree.

**Mr. Renwick:** One is the question relating to the contractual relationship, which would provide additional protection for a home buyer, for a new home or for an existing home.

It would seem to me there must be some minimum standards that are known throughout the real estate industry which could be incorporated in a bill to provide protection now. It needn't await the wide ramifications of the point made by Mr. Winkler, or the wide ramifications and delays inherent with what you're talking about.

**Hon. Mr. Clement:** The Urban Housing Association and a committee of the province and a committee of the federal government are dealing with those matters that you speak of laterally, as to utterly regulating the housing industry. They do this, I understand, in California where they have to file a prospectus before a developer can go ahead with five or more houses. And BC has it in their legislation.

**Mr. Renwick:** We have been urging it here for a long time.

**Hon. Mr. Clement:** Until I get this information back from these people who are completing these studies, we cannot go ahead and present legislation. Right now, as you know, the organized areas, the municipalities, have building inspectors and certain local building codes. This creates problems in various areas and—

**Mr. Renwick:** That's what happens to a homeowner after he's bought the house and when the housing inspector comes around. He has the additional cost of bringing it up to the standards—because it was sold on a market which permitted it to be sold at less than the required minimum standards.

**Hon. Mr. Clement:** With the new building products coming into the market, I know they are in a position right now that before their product is acceptable to the standards of a certain municipality, they have to market it piecemeal across the province. By hav-

ing a uniform building code, once it met the specifications of the code then it would be presumably acceptable right from east to west.

It's a very complex thing to get uniformity apparently. I don't know anything about building, but it would seem to me certain building standards in an area like Metro are completely different from building standards in portions of other parts of the province.

**Mr. Renwick:** Let alone other parts of the country. If you're talking about a national system we—

**Hon. Mr. Clement:** That's right.

**Mr. Renwick:** We can wait until doomsday for that.

**Hon. Mr. Clement:** I think it has been as old as time. The only houses in Toronto that can be built are solid brick. Where I come from you wouldn't have one solid brick house out of a thousand. They're all brick veneer—perfectly adequate for the purposes down there and for the conditions that exist.

**Mr. Renwick:** The structural strength of a home in Vancouver is not nearly as demanding as the structural strength of a home here.

**Hon. Mr. Clement:** I anticipate this is maybe part of the problems that they're running into when they're trying to come up with some kind of code. They may have to have specific sections dealing with certain geographic regions. I just don't know.

**Mr. Renwick:** What sort of constitutional theory is there that indicates—apart from the fact that Mr. Basford is a very aggressive minister—what jurisdiction there would be in the federal government in that field?

**Hon. Mr. Clement:** Oh, I don't know, except that they could tie it in to their Central Mortgage and Housing Corp. programme. I haven't thought about any jurisdictional problems relating to—

**Mr. Renwick:** That's about all, really. It's a matter of individual contractual relationships. So far as your coming to the buyer having an opportunity to enforce a—

**Hon. Mr. Clement:** It never crossed my mind. I came in and the study was already well under way. As a matter of fact, the Carrothers committee filed its report about a month after I assumed my responsibilities.

**Mr. Renwick:** I wouldn't waste too much time co-operating with the federal government in that area. I think if we can get some protection for the people in the Province of Ontario we'll be doing very well.

**Hon. Mr. Clement:** Of course, I'm duty-bound to co-operate with everyone, you see.

**Mr. Renwick:** Well, there are other areas you can co-operate with the federal government on. There's distribution of tax revenues and that kind of mundane thing.

I have made the point before, you know, that a good part of the consumerism was fashionable and the federal government, with a very aggressive minister and because of the fashions of the time, moved in on a large number of areas for which it has no really solid support at all.

**Hon. Mr. Clement:** Yes, but not very much was done in many areas.

**Mr. Renwick:** Yes, but I think that perhaps a little more, now that it has settled down, without rehashing old fights and so on. I think that you should take a good look at exactly what the responsibilities of this government are. I think one of them clearly, is the protection of homeowners. And not waiting for some indirect protection through CMHC or some vision of a national—

**Hon. Mr. Clement:** I agree with that theory. If the legislation as to uniform building standards was in statutory form, I'd be prepared to introduce it into the House tomorrow. I'm not going to sit back and wait. Who knows, this may generate some activity in Ottawa, which may result in some improved position from up there.

**Mr. Renwick:** At the risk of even more protracted delay, could you ask the Law Reform Commission, or arrange for them to be asked, to deal with the question of homeowner warranty, or homeowner protection? There are any number of articles which appear. It's almost cyclical—about every four or five weeks in the *Globe and Mail* and other papers—warning people of the various things that they should look into before they buy a home. The repetition of it would indicate a very real need.

**Hon. Mr. Clement:** My staff just indicated to me that the Law Reform Commission apparently did do a report in 1968, on the trade and sale of homes.

**Mr. Renwick:** Did they?

**Hon. Mr. Clement:** Yes. I wasn't aware of it.

**Mr. Renwick:** What has happened to it, Pat?

**Mr. Lawlor:** It doesn't say very much.

**Mr. Renwick:** It doesn't say very much?

**Mr. Lawlor:** It's one of their thinner ones. I forget what it said.

**Mr. Renwick:** Maybe you could refer it back for an additional report. It just seems to me that it's extremely important, not only in the area of the subdivision, but in the area of the quality of the home and the protection of people. It's important that they have some contractual rights, in addition to whatever uniform building standards code may be introduced as well, which would be helpful.

**Mr. Martel:** I have a couple of things. On Oct. 19 you indicated to me as a result of earlier correspondence with your predecessor in that post, that Sudbury would hopefully be getting an officer to look after consumer protection. We weren't able to turn the screws on the last Treasurer nearly as well. Maybe you've had more success with the new one in getting a consumer protection officer. I guess it's the only city of its size without one. Has that come to fruition yet?

**Hon. Mr. Clement:** Yes, it has.

**Mr. Martel:** It has? What is the gentleman's name?

**Hon. Mr. Clement:** There are three consumer protection officers to be appointed in three different geographic areas, Sudbury being one of them. It's included in these estimates, I believe, and we got the approval of Management Board when we went to them in late January or early February. The notices advertising the post will be published within a very short period of time—two or three weeks. The posts will be filled in Windsor, Sudbury and Thunder Bay.

**Mr. Martel:** Oh, that's great. You'll indicate this to us, of course, once the position is filled, so that people will be made aware of it.

**Hon. Mr. Clement:** Yes.

**Mr. Martel:** Oh, that's fine. I have no complaint about the job that your man, Mr. Ross from Northern Affairs, is doing. It's just too much for one man to handle with the jobs he's doing now. You know what happens



—as you run people like Dare to be Great out of the south, they migrate northward. We find this happening all the time. The things you run out of the south, you send north. The things you want from the north you bring south. Maybe we're going to get a little back.

**Hon. Mr. Clement:** Everything that we want down here?

**Mr. Martel:** Well not as many things as you want.

**Hon. Mr. Clement:** We have a few things in the south we didn't ask for.

**Mr. Martel:** I have a second problem, and I'm glad Mr. Brown is here because my colleague was speaking about the pyramid selling and I have a funny one that I can't make any headway on.

The file is getting to be voluminous already and it deals with Golden Products. What disturbs me is when I raise key questions and I don't get the answers.

In particular, there are two. Apparently Mrs. Enid Aspenall, a constituent of mine, signed and purchased one of their contracts for \$2,500 and shortly thereafter was approached by the company again and told that she should go into a broader field—and for another \$2,000 she could buy yet another contract.

In the meantime, she wasn't told that if she bought the second contract she could not, in fact, return the commodity if it didn't sell. Under the terms of the first contract, she could. Under the terms of the second contract, she could not. She wasn't aware of this restriction at the time of signing and I am trying to determine your position on it.

Now, the latest letter I've received indicates that the manager of Golden Products suggests Mrs. Aspenall's husband is happy with the situation. Yet the letter I received just in the last week from Mrs. Aspenall, endorsed by her husband, suggests the contrary.

They were happy until they found out that under the terms of the second contract they couldn't return the commodities. All hell broke loose. I was just a little disturbed after learning this afternoon that Mr. Brown is the one-man workhorse in controlling pyramidizing and that he would have problems in tracking down the actual facts as we might like them. I assume he has to take the Aspenalls' word at face value when he is speaking to them about the facts. As I say, he's a one-man crusade. But the information I have signed

by these people is contrary to some degree in this interest. I say there are two aspects.

**Hon. Mr. Clement:** Well, I'm not familiar with the contracts. I haven't seen any, Mr. Martel, but I know that Mr. Brown has seen a good number of them and I don't know if he can recollect this particular matter. Perhaps you might address yourself to the committee, Mr. Brown, and assist us in this problem.

**Mr. P. Brown** (Registrar, Pyramid Schemes): I think part of the problem with the Aspenalls is that they signed at least part of the agreement before the Pyramid Sales Act came into effect. When a company won't recognize the Act, then the contracts signed have onerous conditions to them. I don't think Mrs. Aspenall can meet these conditions and I don't think she has any recourse. The Pyramid Sales Act is not retroactive.

**Mr. Martel:** The point I make is that she did not have the terms of the second contract before she signed it and was more or less hoodwinked by the conduct of this company. She wasn't aware that by signing a second contract and buying a bigger distribution that she didn't have the right to return the product should she have decided to want out. And she did attempt to get out.

It seems to me there was an onus on the company to indicate to her through some written contract or agreement prior to her signing that she in fact couldn't return the product. And this she was not aware of.

**Hon. Mr. Clement:** Can you help me in terms of time? When did she sign the first contract, do you know approximately?

**Mr. Martel:** Oh, May or June. I can find out.

**Hon. Mr. Clement:** All right. She signed it, we understand, prior to June 16, 1972.

**Mr. Martel:** A short time later she took out a second contract.

**Hon. Mr. Clement:** She took out the second one, I gather, then, after the Act came into effect.

**Mr. Brown:** We haven't determined that yet. That's been one of my problems.

**Mr. Martel:** All I have are the details—

**Hon. Mr. Clement:** The reason I ask these questions is to get it clear in my own mind. It would seem rather peculiar to me that under the first contract, when the Act was not



in force, she had the right to return the unsold product. Then the Act came into effect and under the next contract she didn't have the right to return the unsold product. That's the way I understand it.

**Mr. Martel:** Yes, and that's what's bothering me.

**Hon. Mr. Clement:** It would seem to me that if the Act was in force and the company was trying to demonstrate its good faith to the world at large that the contracts would just be reversed in those terms.

**Mr. Martel:** And I'm saying what bothers me, Mr. Minister, is that Mrs. Aspenall did not receive the second contract advising her of this regulation. She didn't have the right to return the products until she had signed the second contract.

**Hon. Mr. Clement:** Am I correct in assuming that she did not read the second contract?

**Mr. Martel:** That's right.

**Hon. Mr. Clement:** And is there any evidence that the—

**Mr. Martel:** No, I don't have the evidence.

**Hon. Mr. Clement:** I am wondering if the man told her that the second contract was the same as the first one.

**Mr. Martel:** She had a verbal agreement with him to the effect that she could return the products, but that was not in the terms of the contract when she received it.

**Hon. Mr. Clement:** I haven't seen the contract but I can tell you I would be willing to bet anything that it says right in it—they all do—that nothing said outside the contract is binding on the company and all the terms, conditions and provisions of the contract between the parties are contained within it. I presume she didn't receive the second contract.

**Mr. Martel:** That's right. But here's a company that's close to getting its prospectus accepted.

**Mr. Brown:** They have filed material. I wouldn't say they're close.

**Mr. Martel:** When at the same time they're attempting to get recognition by the government of Ontario, they're still playing games with people. I don't think they should have a right to and the government shouldn't even

consider allowing them to continue in business.

**Hon. Mr. Clement:** There's more of a principle involved here than dealing with pyramidal sales organizations, with which I have little sympathy, I might add. There's a principle involved here suggesting that if a person does not read a contract he presumably can read, that there should be legislation to let him void the conditions of that contract if they are subsequently found not to be acceptable. If we ever considered a law like that, the law, commercial transactions and normal transactions between parties carried on day in and day out would just be thrown into chaos.

**Mr. Martel:** Well, I would suspect not if they knew the rules of the game.

**Hon. Mr. Clement:** If I knew that the government would bail me out of any contract I signed so long as I didn't read it, I would make a point of not reading it. I would say I didn't want to read it and would just ask where to sign, because I would know the government would bail me out of it. If I read it, then I would be presumed to know the terms.

**Mr. Martel:** But you're taking the position that all people are crooks when you make that sort of categorical statement.

**Hon. Mr. Clement:** No, no, I'm not taking that position at all, but if you and I are going to enter into a simple contract to buy and sell an automobile or—

**Mr. V. M. Singer (Downsview):** A horse.

**Hon. Mr. Clement:** —a horse. You agree to sell me a horse and I agree to buy a horse, and you say you will sell it for so much and I say I'll pay so much—

**Mr. Singer:** Look at its teeth.

**Hon. Mr. Clement:** You say I have to take this horse as is. I can't come along a little later and say "Holy heavens, that horse only had three legs. I thought it was a four-legged horse."

**Mr. Singer:** Surely you pay your money and you take your chances.

**Hon. Mr. Clement:** Nothing unique.

**Mr. Lawlor:** And it extracts its teeth while you are standing there.

**Mr. Singer:** Ah, come on, the government can't protect you against all your foolishness.

**Mr. Lawlor:** Standard form contracts are needed.

**An hon. member:** For everything?

**Mr. Lawlor:** For most things.

**Mr. Singer:** Oh, come on, Lawlor.

**Mr. Lawlor:** Anything that's sold in large numbers to lots of people ought to be by standard.

**Mr. Singer:** Like horses.

**Mr. Lawlor:** And the parole rule has to be excluded from a contract.

**Hon. Mr. Clement:** I wonder if we could do this in this case that you've directed our attention to, Mr. Martel. I wonder if it would be possible for your constituent to provide you with a photocopy of the two contracts, and for you to make them available to Mr. Brown, so we can get down to specifics. And see if he can dig into it. We don't even know the facts in this matter, although I think the answer will become apparent one way or the other. We're conjecturing now. How do we know there isn't print an eighth of an inch high in heavy black saying this or something?

**Mr. Martel:** Right. The point is, as I said earlier—I wasn't aware that you only had a one-man staff over there for the entire province. I can well understand why sometimes he might be forced into only looking at something, and I don't want to cast any aspersions on him doing it superficially. I am sure that he—

**Mr. Chairman:** Possibly, Mr. Martel, Mr. Brown can specify to you and particularize the information that you require, and maybe you could work that out.

**Hon. Mr. Clement:** Has this woman paid some \$4,500 now?

**Mr. Martel:** \$2,500 and \$2,000. All she wants is to return the goods, \$405 of business which they won't get back, for the retail value of about \$800. They won't accept it. In fact they won't even answer the phone when she phones to claim.

**Mr. Chairman:** Do you want to take it up with Mr. Brown?

**Mr. Martel:** I'll take it up with Mr. Brown.

The other point I want to discuss, just momentarily, is that you have got some good people in that department of yours, Mr. Min-

ister. Mr. Walker, I guess, would be consumer protection. I just get the feeling that like Mr. Brown, he doesn't have enough staff. But even more so I get the feeling that the legislation—I am no lawyer, but the legislation that he works under really binds his hands from doing the type of job—as I understand it he cannot prosecute himself. He has to take out the information—through his staff. After digging out the information he can make a recommendation, I think, and the Attorney General's department then would move in on it. Is that right?

**Hon. Mr. Clement:** Right.

**Mr. Martel:** It seems to me that frequently in the correspondence I get from him, he feels a little hopeless trying to cope with an insurmountable task. He's in charge of protecting the consuming public in a province this size (a) from the lack of staff, and (b) from legislation which doesn't have all that much in the way of teeth.

He does an excellent job, by the way, of pressuring companies into making good. On many occasions he has been able to assist constituents of mine to get back their just due. Is there any intention to strengthen the size of the department and to strengthen, more importantly I think, the legislation?

**Hon. Mr. Clement:** Yes, two things, Mr. Martel. One, these estimates relating to Mr. Brown's branch provide for one increase in complement, in the person of an additional investigator. I think it was Tuesday or Monday we dealt at some length with a study I had completed. I have had it in my hands for possibly six weeks now. For lack of a better description, I'll call it the Business Practices Act. It sets out what is considered to be deceptive practices, and says anybody who does this is under the law bound to provide restitution or substitution.

Many of us go through life thinking the policy of the store we deal with is to return the goods if you are not satisfied—that that is the law of the land. And it just is not. Many companies and retailers do have this as an age-old policy and they stick by it. The consumer, to a certain extent inadvertently, has come to the conclusion that all stores must take back all goods or replace them or give you your money back. That just is not the law of the land. I don't know if that will ever be the law of the land.

But where there are deceptive or unfair practices exercised against a consumer, we have got to have some legislation to set out



what those unfair practices are and what happens if you persist in following that pattern of conduct. I do think and sincerely believe that this will be a step in the right direction.

I may as well bare my heart to you. I have had some problems—

**Mr. Singer:** Not that too.

**Hon. Mr. Clement:** "What heart?" my deputy says.

I have some problems just reconciling in my own mind what we are really looking for in this province. Are we looking for complete and absolute consumer protection, or are we looking for fair dealing—because to me there can be a difference. If you want to get into the ultimate in consumer protection, then you should give my registrars legislation and the power that if they think you are guilty of a deceptive practice—we'll say as a realtor, or as a car dealer—that they immediately have the right, as the Securities Commission does, to stop trading—immediately. Then the onus presumably shifts to that individual who is the target of that order—

**Mr. Renwick:** That is a red herring argument.

**Hon. Mr. Clement:** —to move before, say, the commercial registration appeal tribunal to have the order lifted. And this stops the crooks in the business from carrying on these practices during that interim period—between these stages and the proceedings. But it also vests a terrific amount of responsibility in the individuals enforcing this type of legislation.

**Mr. Singer:** Responsibility or power? Which is frightening.

**Hon. Mr. Clement:** That's right.

**Mr. Singer:** Which is frightening.

**Mr. Renwick:** It is almost like Lord Heward's "new despotism."

**Mr. Singer:** No, it is worse even than the far-out left NDP.

**Hon. Mr. Clement:** You see, it's pretty dangerous legislation.

**Mr. Lawlor:** Just because the Globe and Mail is supporting your party these days, it doesn't mean you have to throw all your principles out.

**Mr. Singer:** Jealousy will get you nowhere.

**Hon. Mr. Clement:** These are the kind of things that philosophically concern me be-

cause people can make an innocent judgement.

**Mr. Renwick:** We appear to be moving further to the left because you are moving further to the right.

**Hon. Mr. Clement:** If you put someone out of business for two, four or five weeks, while he is waiting from the time the order was served on them until he gets before the tribunal, you could effectively bankrupt that man.

**Mr. Martel:** The point I want to make though is that it seems to me—we heard it this afternoon from Mr. Wardle and various other people—that the vast majority of businessmen are conscientious and not trying to rook the public.

**Hon. Mr. Clement:** There is no question about that.

**Mr. Renwick:** The minister really doesn't believe that, because most of his speech to Peel South—

**Mr. Martel:** You are dealing then with a relatively small group who continually play around. In fact there should be some simple, fast way of terminating their practices.

**Mr. Singer:** The simple thing is to identify them and lock them all up forever.

**Mr. Martel:** I would suspect though, it is just like car drivers. If a guy drives 90 mph down the main street in Toronto and the police catch him, he loses his licence for a while. That doesn't say you throw all the rest of the drivers in jail, do you?

**Mr. Singer:** No, no. But you can tell by looking at him which guy is going to do that.

**Mr. Martel:** Are you saying all businessmen are crooks then? Because that is in fact what you have just indicated to the members here—that every businessman who carries on a business in the province should be thrown in jail and the key tossed out the window.

**Mr. Singer:** Is that what I said?

**Mr. Martel:** That is exactly what you said.

**Mr. Singer:** Not quite.

**Mr. Martel:** Well, you can veil it in any other type of language you want. That is in fact what you were saying.

**Mr. Singer:** Oh, okay.



**Hon. Mr. Clement:** These are the problems though that, from a government point of view, genuinely do concern me. I just don't know if there are any answers.

**Mr. Martel:** I don't know either, but I think there has got to be a way to move expeditiously on people when they are definitely out to milk the public.

**Hon. Mr. Clement:** I do think that this business practices legislation will be a move in the right direction, and a safe move. Similar legislation has been enacted in certain areas of the United States and it is in effect. Their experience in some of these jurisdictions has been that certain businesses were operated contrary to the public interest—contrary to ethics. When it is drawn to the attention of the business people they truly didn't really realize the position they were putting themselves in, and putting the public in. They will sign a consent order, undertaking to cease and desist that type of activity, or that particular procedure.

Now if they persist in this, it really is an injunctive type of process by which the government or the enforcement agency applies to the court for a permanent injunction restraining them from continuing business on those lines. In the legislation down there they have set out, almost as a schedule, what are considered to be deceptive or unfair practices. It performs several functions and not only protects the consumer but gives some guidance to the business person, too.

**Mr. Chairman:** If the minister has finished baring his heart, I wonder if Mr. Singer wants to say anything?

**Mr. Singer:** Yes, could I say one word?

**Mr. Chairman:** Excuse me. Did you have something?

**Mr. Martel:** I have one more topic I want to speak on.

**Mr. Singer:** I wanted to talk on this one.

**Mr. Martel:** Go ahead.

**Mr. Singer:** I get bothered, Mr. Chairman, by the thought that government is able to seek out all of the villains in society, identify them and punish them and stop them from performing. Government is supposed to do it by an erudite imagination which will feel out all those villains.

We had a somewhat similar debate yesterday on the city of Toronto bill, and my main objection to the city of Toronto bill was—

**Mr. Renwick:** There is no comparison whatsoever between the city of Toronto bill and what we are discussing now.

**Mr. Singer:** I think there is, with great respect. No. I think that the distinction is—

**Mr. Lawlor:** You were ruled out of order the other day. You were completely out of order.

**Mr. Renwick:** You've gone out into outer space.

**Mr. Singer:** No. I am drawing this as a parallel and notwithstanding the kind of objection that's coming here—

**Mr. Lawlor:** Your kind of parallel is not an analogy.

**Mr. Singer:** Well, they haven't even heard me out.

**Mr. Lawlor:** We don't have to. We know what you are offering.

**Mr. Renwick:** You have gone into outer space. You will have an opportunity again to debate the city of Toronto bill and let's do it in the proper forum. This is consumer protection. Protection, do you get it? Protection of the consumer.

**Mr. Singer:** Mr. Chairman, I am discussing the philosophy of consumer protection.

**Mr. Renwick:** We are discussing the protection of the consumer, not John Locke's personal—

**Mr. Singer:** I think the analogy that many of the members, including the noisy ones here, are familiar with is a very apt analogy.

**Mr. Lawlor:** Mr. Chairman, don't be over-ridden by him.

**An hon. member:** You don't want to believe him.

**Mr. Singer:** What I believe and what I think most governments should believe—

**Mr. Lawlor:** I will lose all respect for you if you can't stand up against this.

**Mr. Chairman:** Now just a minute, Mr. Lawlor.

**Mr. Lawlor:** Well, okay.

**Mr. Chairman:** A moment ago you were talking about the lemon peel—

**Mr. Singer:** I met you fellows on the way in and you said you wanted to talk.

Mr. Chairman: —or the lemons in Peel or something of that nature which I didn't think particularly referred to item 6.

Mr. Lawlor: Read the speech.

Mr. Renwick: It did because it was one of the minister's speeches. It was a speech by the minister.

Mr. Lawlor: It was talking about bad cars, if you recall the speech.

Mr. Chairman: In the opinion of the chair, if Mr. Singer has a point to raise on item 6, we should hear it.

Mr. Singer: I'm trying to make it. I'm being very badly heckled here. I'll try it, anyway.

Mr. Renwick: We don't question whether he has a point at all.

Mr. Lawlor: He thinks he can say whatever he wants to say, whenever he wants to say it, just as I do.

Mr. Renwick: Why don't you go ahead?

Mr. Lawlor: If he gets away with it, I'm going to get some cigars.

Mr. Renwick: Why don't you go ahead?

Mr. Singer: Mr. Chairman, if I may continue trying to delineate my philosophy in this field from other philosophies. I don't really know whoever may have them.

Mr. Martel: Twenty-two members in the Liberal Party.

Mr. Singer: I believe a government should be government of law and not of men. I think that if it is in the public interest that we should begin to enact, as certain people suggested to us in the city of Toronto bill, that all of the discretion lies in certain elected people—without delineating what the tests are—this is very wrong. Then you have a government of men rather than a government of law. I think this is a very important privilege and I am most jealous of the kind of privilege that we give to your ministry, however important it might be to protect the citizens of this community unless we are able within our wisdom to spell it out in a statute.

I am not prepared to give to any one of you people or the ones back there an absolute discretion to do what in their minds is correct at the moment. I think we've got to be able to turn to a statute and say, "This

far you can go because we gave you that power, and no further."

This is what Mr. McRuer was talking about. I'm sorry Mr. Lawlor took himself out because I told him I was going to talk about McRuer and he is a great McRuer fan. McRuer said, if I interpret him correctly, as I say—that government should be by law and not in the minds of men.

If we are going to give you power to control car dealers or insurance salesmen or horse salesmen, be what it may, surely there must be enough intelligence in our collective minds to spell it out in a statute. If any one of your various officials has an authority to assert, he should assert it within the power of that statute and not in his mind which would allow him to choose between a red-haired man or a white-haired man or whatever.

I think this is wrong. The more I hear from my friends over here that you've got a duty to protect people against everything that goes on but you don't spell it out in statute; you leave it to someone's discretion—Lord help you if you exceed what they think is that discretion! Then you get into trouble and then you begin to destroy government because at that point, Mr. Chairman, you invite arbitrary and unreasonable decision.

I recognize that the problems the gentleman over there and the gentleman over here and my colleagues have been talking about are most important. Let us hope that we can come up with a kind of statutory definition of the evil we are trying to attack and an authority to officials that we will give them—they haven't got it of their own; we will give it them—which will allow them to apply these tests. If they are wrong, we can go on through a series of appeal procedures to test whether or not, in the minds of other people, they have exercised those discretions fairly.

I get very tired and aggravated by the thought that any government—as bad as I think you fellows are—is going to be able to exercise the—

Mr. Chairman: Now, watch it!

Mr. Singer: —abundant discretion, that it is going to seek out all this five per cent—that's what Mr. Martel didn't understand —of the evil people who may exist, and lock them all up forever and there will be no more evil in the world. I just don't believe that.

People who govern collectively—all 117 of us govern to some extent—have got to be able



to define in statute the criteria. There have to be reasonable appeal procedures to guard the individual citizen against arbitrary exercise of that kind of power. If we begin to lose sight of that, we become a dictatorship whether it's of the left, of the right, or the middle or whatever it is. That's the thing I abhor and this is why I get tired of listening to this kind of nonsense that we hear so often.

**Mr. Martel:** Could I just make one point?

**Mr. Chairman:** Yes, one point.

**Mr. Martel:** Mr. Chairman, I think I asked the minister two questions, the second being did he intend to improve the Consumer Protection Act?

**Hon. Mr. Clement:** No. The Business Practices Act, yes, I believe.

**Mr. Martel:** Mr. Singer was as usual talking and not listening.

**Mr. Chairman:** Let's keep this on a high plane now.

**Mr. Martel:** Well, he has been off on his white charger for five straight minutes, totally ignoring that I had asked the minister if they intended to introduce or improve the legislation under which Mr. Turner was trying to administer an Act.

I believe I asked the minister that and I wasn't suggesting giving power to any one. It was as usual just a lot of nonsense, gobble-dyook, trying to be on both sides of the fence at the same time.

**Mr. Chairman:** Mr. Martel, let's confine our remarks now to the item.

**Mr. Martel:** Well, this is typical Liberal nonsense.

**Hon. Mr. Clement:** On your question pertaining to the point, are we considering any legislation? Yes. This Business Practices Act is a step in that direction, to define perhaps those things we find deplorable and unacceptable and to contain sanctions against businesses and individuals who carry on that type of deplorable behaviour.

With reference to Mr. Singer's comments, I share them. On the other hand, there are tremendous social pressures, not only exerted by the public directly but through associations of public people and through members of the Legislature who feel that the answer to all of these problems is a massive registration programme, licensing everybody to do

everything. Of course, the ones who rush to be licensed and who register immediately are those who are adhering to the law, by and large, but meanwhile our cost of government escalates at a tremendous rate. If I sat here tonight and said we want to take on 175 clerks and so on to put in a massive registration programme, the cost would just be phenomenal.

Getting back to Mr. Singer's comments for a moment, I think in fairness he was talking of principles, as I understand it, and he was talking objectively and not subjectively. I know that the officials in my ministry have, in different words, shared the concern that you have indicated, and they don't really want great discretion. They want to know what their duties are.

**Mr. Singer:** That is exactly my point.

**Hon. Mr. Clement:** They will perform within the boundaries of those duties. If there are voids or areas where there is silence, they are called upon to make a decision and God help them if the decision happens to be wrong. They are well aware of this and it casts a very unfair onus on them to put them in a position, through legislation, to have to make decisions because the Legislature was silent.

**Mr. Singer:** That is right.

**Hon. Mr. Clement:** There are these two conflicting sides now, getting back to what the public demands are and, really, in philosophy—and safety—how far you can go? This is one of the things that goes on constantly in my mind and in the minds of people who are here tonight, senior people from the ministry; I have chatted many times with them along these lines.

**Mr. Chairman:** Item 6 carried?

**Mr. Martel:** Mr. Chairman, I have one last item—

**Mr. Renwick:** Mr. Chairman, just following along on that discussion; it seems to me that the genesis of the theory there must be a consumer—

**Hon. Mr. Clement:** I am sorry, Mr. Renwick.

**Mr. Renwick:** The genesis of the present-day view that there has to be substantial consumer protection operation of the government in an administrative law sense, has arisen in large part because of the failure of the substantive law of contract of the



sale of goods and real estate and in other areas to keep pace with modern conditions.

I think that we should not view—and I regret to say it, but to this extent I agree with Mr. Singer's position—that if we are approaching a point in time where we are able to adequately restate the contractual relationship between buyer and seller in a way which does not require the buyer to read a great deal of legal jargon, but where the buyer can have the knowledge of relatively standard forms of warranties to protect him in the field of product performance, which can then be enforceable expeditiously on an individual basis between himself and the person who sells it to him; then I don't see any need for a massive proliferation of a semi-police operation in the field of consumer protection.

But it is quite true that one only has to now look at the work of the Law Reform Commission in the field of consumer protection in the field of warranties, to recognize how out of date it was for the protection of the ordinary member of the consumer public; good and all as it may have been between traders and dealers in the non-consumer economy on a commercial trading basis where there was a wide field of practice, a wide field of trade ethics, wide ethics of the marketplace among commercial traders and dealers, which is basically what that Sale of Goods Act was about.

It does seem to me—and I think it is the substance of our sort of nattering about the delays in the legislation, difficult as we understand it to be—that when you get wide areas, such as the operations of the Ontario Retail Gasoline and Automotive Service Association, and you get the area such as the Mac's Milk franchise holders, and areas such as the car dealerships, where the unilateral power on one side prevents the other person from having anything in the nature of a protected position that he can bargain in good faith with the person who holds the major powers, then we are in serious trouble. I think we have to move into that area.

I certainly think my colleagues and I are not ones who constantly like having to refer individual items in consumer protection to the department in the hope that in some way or other the mediation theory or the velvet glove can be used to produce a result. It may be satisfactory in individual cases, but in the long run it can't work that way. You just have to have a massive department in order to do it—and then it wouldn't work. But it is the enforcement part of it.

So I would like to ask two other questions. One is that I know the minister was not particularly familiar with the Ontario Retail Gasoline and Automobile Service Association briefs that it has been putting in for a long period of time. But I understand now that they have been sent to him, the brief on franchising, the brief on promotions and the brief on the question of discriminatory pricing in the gasoline field. I would like to ask the minister if he would comment or give some hope to this association in the field of its concerns.

I think that is the only other item. There may have been one other. Oh yes; the other area was whether or not there is any need for something in the nature of a class action for consumers. Is there any indication in the marketplace in the Province of Ontario that a large number of consumers are getting hurt? One individual might assert a claim and might very well win on that claim, but it is almost impossible for all of the persons who have been subjected to the same misleading practice to obtain redress.

There are various versions of it. There is the class action in the traditional sense and there is the consumer advocate theory. And there is this suggestion, which is apparently not all that helpful, that in Saskatchewan now the Attorney General of Saskatchewan can bring the action in his own name as a class action to protect a large number of people who individually can't afford to bring it but each of whom has suffered some degree of loss.

Would the minister comment on those two areas?

**Hon. Mr. Clement:** Dealing with the gasoline dealers, I met on one occasion with representatives of the Ontario Retail Gasoline Association. I received a brief and discussed their problems with them. Their problems mainly were that they felt they were in the hands of the petroleum companies. It was really a discussion and complaint about price cutting. This problem, of course, is not unique either in time or in point of geography. It has been going on as long as certainly I can recall, from one side of the country to the other.

I pointed out to them on that occasion that there was no legislation presently on the books that would be of any assistance to them.

I also pointed out that I was concerned from the consumers' point of view that if there was legislation that in fact built in a

guaranteed 10 cents a gallon or eight cents—whatever would be found to be pertinent if you did have the machinery set up—I failed to see how this could do anything but harm the consumers. Then the dealer would not really be concerned with the basic price because if everybody was selling gas at, let us say, a 10 per cent profit to the vendor, that is, the dealer; would it matter if the basic cost was 90 cents a gallon plus the dime, or would it matter if it was 39.9 cents a gallon plus the dime?

**Mr. Renwick:** I didn't take that to be their major criticism. Price cutting as such between equals is part of the competitive marketplace. The thrust of their concern—and perhaps I just haven't understood the way the minister has expressed it—is that a particular oil company which has franchised a number of traditional retail corner gasoline stations, and has agreed in its franchise contracts to sell them gasoline at a particular wholesale price, will then turn around and sell the identical gasoline to an independent on the street at a lesser price than it is prepared to sell it to its franchisee, who is the one who carries the main bulk of its business. Or the company will establish a subsidiary company and provide that subsidiary with the identical gasoline which it can go out and sell.

Every now and then you have this sporadic breakout of the so-called price war in the gasoline field, disguised as all sorts of gimmicks; you know, the Mother's Day special and the holiday weekend special.

In many cases it is the very time when the retail dealer, who has been in business day in and day out, expects to have a really good day because it's going to be the holiday weekend, or there's going to be some special reason why people are out driving. The Mother's Day one is not for mothers so much as that being the early part of May is the opening part of the season when people may go out over the weekend a lot more in their automobiles.

Now that's the 'thrust; and it's not the kind of price cutting that might exist between equal retail dealers who buy their gasoline, and if they can give better service and come in under the market at a lower retail price, that's fine.

But this works at two levels. They have to get their gasoline at a particular wholesale price and they have to retail it; and the very company which supplies it uses what to my mind are improper business practices that seriously affect the retailer. Now that's my

understanding; and I think there must be some way in which that problem can be dealt with.

**Hon. Mr. Clement:** When I met with these representatives of the Ontario Retail Gasoline Association—having pointed out there was no legislation presently on the books—I said I would like to meet with the representatives of the major oil companies to see what their position was.

I have on at least two occasions met with the representatives of the Ontario Petroleum Association, which is made up of the major suppliers—Imperial Oil and Gulf and Shell and so on. I don't have them with me, I wish I did, but some of the figures that they produced were rather impressive to me. This was in the extremely low number of dealers within this province—I contained my discussions to just within Ontario—who are on the old lease deal with a major oil company. Those types of operations seem to be diminishing.

I've read articles in American publications that estimate within the next seven years in the United States there will be about 9,000 service stations closing. They are closing down mainly on the basis of inefficient operation and just the competitive pull and push that exists in the marketplace today relating to petroleum products.

**Mr. Lawlor:** Partially, automation too.

**Hon. Mr. Clement:** A lot of them today find that the old gas station down at the corner that had two pumps just doesn't attract the public. Therefore they have to get into a large capital expenditure to put in the four-bay station. They get into mechanics on staff and the free car wash.

They point out that so many cents per gallon go for advertising and research and this benefit is passed on to the dealer who carries on under their name.

The dealer who buys for the so-called independent, buys his gas usually f.o.b. the refinery. He has to provide for transportation of the product to the independent. They also have gas stations that they operate and they are so uneconomical that they can only operate them through a member of their own staff, who is on a fixed salary. They are there to maintain a wedge in the marketplace, but economically it is not to their advantage at that particular moment and they are hoping to improve it; and they just couldn't put a man in there on a lease arrangement.



I remember 15 or 20 years ago, when I first started practising law, a major oil company had a lease arrangement, and it seemed to me that the more gas the man sold, his rent started escalating and the squeeze was on him. Because of this type of marketplace we have today, those kind of people are few and far between. I will provide you with those figures if you would like to see them. They are rather—

**Mr. Renwick:** I certainly would like to see the figures. But it doesn't surprise me in the least because it is the last stages of the vertical integration with the oil industry into a highly rigid structure. My point is—

**Hon. Mr. Clement:** We had a complaint the other day, if I might add, that some independents are going out of business.

**Mr. Renwick:** That is right.

**Hon. Mr. Clement:** And what is government going to do to assist them? These are not the tied-house operator, but independent outlets going out of business.

**Mr. Renwick:** Sure, because they are being forced out. In the question I asked, I can't study the economics of the oil industry. You know, 88 per cent of the oil in the world comes under the control of the 22 companies out there, and they have got a lot more power than I've got.

But regardless of the figures, it is unconscionable for the oil company, which has agreed to sell to the traditional retail outlet at a wholesale price, to then undercut that dealer through an independent, or through a subsidiary operation, by selling the gasoline at a price which will not be made available to the traditional retailer.

All that the gasoline companies have to be told to do is that if they are going to sell to an independent or anybody else on a particular day at a lower price, then the traditional retail outlets are entitled to get their gasoline at that rate. Then if they want to play the game of the price war, they can play it. That is, as I understand it, the simple nub of the problem.

Naturally the Retail Gasoline and Automotive Service Association is a protective organization to protect itself against some of the things which you are speaking about—the developments which take place in an industry which traditionally doesn't give a damn about the individual person. They want some protection and they need it and I think it is up to the ministry to listen with pretty open

ears to their problems with respect to pricing and premiums and franchising—not for the purpose of protecting them in developments which are going to make them uneconomic, but for the purpose of giving them reasonable protection.

They didn't need this protection in prior times because they were an essential ingredient of the oil industry, and the oil companies wanted them. The companies would say "Joe it doesn't really matter that this contract we are giving you doesn't mean anything. We've known you so long we would never ever think of treating you less than properly." Times have changed and these fellows need the protection now, and there is a substantial number of them, Mr. Minister.

**Hon. Mr. Clement:** I think one of the things the public has to learn—I am in the process of learning it right now. This is certainly no criticism of the public—but they are generally under the impression that many cents a gallon are built into the cost of that product when they buy it from the retailer, because of the advertising policies of the major oil company that is supplying it. That on the basis of figures is simply just not true.

One of the major costs built into every gallon of gas is about a cent and a half per gallon—regardless of who is the manufacturer or the refiner of that gas—which is the cost of providing credit. A good number of us get anywhere up to 35 and 40 days' credit. We pay our bill when it comes in, we pay no penalty, and that is financed in essence by the whole industry and borne by the public in the cost of the gasoline. The cost of advertising and the major programmes of advertising, while large in terms of dollars, when divided into the total number of gallons marketed by that company in a year are just fractions of pennies.

**Mr. Renwick:** I don't doubt all the figures. They have got all of the experts to do the snow job on anybody the same as Bell Canada does at the rate commission operation. All I am saying is that in this very limited area the members of ORCA have a legitimate point which should be of concern to the ministry. I won't press it any more.

**Hon. Mr. Clement:** I will just say this in conclusion, Mr. Chairman. It is of concern, I am looking into it, I hope I have an open mind both ways. I really knew very little about it and know not a great deal more right now. But I do know that many of these independents who buy gas—by the way a



refinery is a device that can't just be turned on and off at will. Once you start to process it costs you a tremendous amount to shut down and start up, and a lot of them take their chances on the product. If there is a surplus, the refiner has to sell it. He sells to those outlets, and if there is a shortage—and there is right now because the offshore gasoline is not coming in—then the arrangement would—

**Mr. Renwick:** We don't get any offshore gas in Ontario.

**Hon. Mr. Clement:** No, but the refineries are supplying their own enfranchised outlets first, and this is working hardships with some of the independents.

**Mr. Renwick:** That is fine. I agree 100 per cent if they get a surplus supply and they can't turn the refinery off or turn it back on again. But what they can do is be prepared to sell their gasoline to their regular dealers at the same price that they sell it into the independent market, and they won't do it.

**Hon. Mr. Clement:** No, in many instances they are doing this, but the independents are trading on volume at 2½ cents to 3½ cents a gallon. I've had dealers tell me that unless they get 11 cents a gallon they'll go belly-up because of their own operating costs.

**Mr. Renwick:** I know the minister will listen with great sympathy to the members of ORGA from now on.

**Hon. Mr. Clement:** Well, I have listened to the members of ORGA. As a matter of fact, they represent a small percentage of the number of people running outlets—

**Mr. Renwick:** That's right.

**Hon. Mr. Clement:** —but they are a voice to be heard, and I've listened to them. This past winter, through an advertising campaign, they had all their people write to me asking me to hold an inquiry. I invited them in and said, "Fine, an inquiry into what? And under what legislation?" They had great difficulty in answering those two questions. I expressed my gratitude for the several hundred pieces of mail that came in, and we were exploring the possibility of sending it on to Ottawa and Mr. Gray.

**Mr. Chairman:** Shall item 6 carry?

**Mr. Renwick:** Could I ask that question about the consumer advocate or the class action and whether we need that kind of

action? Certainly Prof. Trebilcock indicates very clearly that, in his opinion, we need it.

**Hon. Mr. Clement:** I've read several articles on it, and I—

**Mr. Chairman:** We finished that vote, didn't we?

**Mr. Renwick:** When did we finish that vote?

**Mr. Lawlor:** We haven't. The Chairman is straining at the bit.

**Hon. Mr. Clement:** I just want to say that I have been talking to two or three academics about class actions, but I haven't any policy or feelings about class actions one way or the other. I know they are common in the United States. I've seen the pleadings on some class actions—they're very interesting—where there is one plaintiff and as many as 600 or 700 defendants.

**Mr. Renwick:** Well, the case for this is very clearly stated in an article just published in the June issue of Canadian Consumer magazine.

**Mr. Lawlor:** Mr. Chairman, there are two other areas I want to cover. One has to do with certain complaints that have been placed in my hands touching the real estate business, particularly in Toronto. The second one has to do with federal Competition Act.

I'll try to get the first point over as quickly as I possibly can. Leading into that, though, I just want to quote to the minister—

**Hon. Mr. Clement:** With reference to the Competition Act, Mr. Lawlor, I wonder if we could delay it to the end. It doesn't really affect my ministry or any of my staff here, but I would like to get your views on it.

**Mr. Lawlor:** You certainly have made some speeches on it.

**Hon. Mr. Clement:** Yes, I have touched on it, but it doesn't affect my people here; and if we don't need them, I'd let them go if they were done.

**Mr. Lawlor:** Perhaps we will try to reach it on Monday if we may, because Mr. Renwick has to go off to the Hydro committee; he has a vital and almost consuming interest in the Competition Act—even more so than I. We will try to reach it on Monday afternoon if we might.

There is just one quotation I want to read from the Law Reform Commission report. On page 30, it says about warranties:

It is the view of the commission that the time has come in Ontario to abolish the parole evidence rule for consumer transactions and to nullify the effective disclaimer clauses in written agreements which preclude the buyer from giving evidence about all representations.

That is all I'm going to read about that. The Law Reform Commission has come down squarely in favour of what I was talking about earlier tonight but which Mr. Singer, in his more purblind moments defending the private enterprise system, refuses to recognize.

Regarding real estate, a situation is arising in Toronto, again precisely along the lines of our previous discussion here a moment ago, which may foreshorten it. The trend in industry throughout Ontario and in the west, I suppose, is toward oligopolistic practices; various industries are highly monopolistic all along the line.

A few years ago, the then Minister of Financial and Commercial Affairs (Mr. Rowntree) introduced some legislation reforming and transforming the real estate profession internally and the relations between brokers. Then the federal government introduced legislation in the statutes of 1969-1970 allowing loan companies to operate in the real estate field. Perforce, because of the federal legislation, we too altered our law to give the loan corporations either exemption under this thing, or recognition in effect as real estate brokers.

Almost ancestrally, the trust companies have had that freedom; and there hasn't been any internal dissension because of that. But because of a peculiar incorporation and the moves on the part of a company called United Trust, which you will remember was Mann and Martel, each kind of stayed in their own preserve and worked co-operatively together before the emergence because their chief emphasis was upon specifically trust matters. Real estate was a sideline which they engaged in, but wasn't primary or preponderant. But with the coming of Mann and Martel, and to some extent Royal Trust, it changed. Mann and Martel got that trust charter.

It was predominantly and overwhelmingly a real estate concern and moving into the trust market with this as their base and orientation, they have given a new shoe and new type of direction to the whole thing. So much so, that while they remained with about five or six other major companies as members of the Toronto Real Estate Board and participate in the full benefits of that board, namely, the

MLS, the multiple listings; they also run parallel with it and contrary to it in competition with the organization of their own photo-listing service. Getting all the benefits, they try to corral to the greatest extent possible the exclusive listing field.

This is having the effect of driving the small, independent operator—who has flourished by and large in a perfectly legitimate area for entrepreneurial skill, developing firms responsible for many men being employed—of driving them to the wall.

They are beginning to complain somewhat bitterly. They think that it is an unfair practice operative within the Toronto Real Estate Board. I simply want to place it before you. I am sure you know most of the details of it and we can get your feeling, and those of Mr. Cox, as to how it operates. In one of their statements they say:

The Toronto Real Estate Board has grown to its present strength largely thanks to the MLS system. It is the best marketing place for all member brokers. A very active market with fewer listings than normal [because the houses aren't being built and because of the closing in of the market there isn't just as many any more] has prompted some companies to encourage exclusive listings over MLS listings, which has drastically reduced the number of listings on MLS. This resulted in an increasing monthly deficit of TREB, which ultimately can only be paid for by the members. In an attempt to control a larger share of the market, certain companies have developed sophisticated exclusive listing systems which compete with the existing MLS in many ways.

And they say that this is contrary to their ethics on one side of the fence and mention a clause in the real estate administration course now prescribed for all brokers in Ontario. Paragraph number nine reads:

The broker owes to the vendor the obligation to co-operate with any other legitimate broker who has a prime prospect for the property, making a reasonable arrangement for the division of the commission and carefully handling the co-operation so that the seller does not become involved in the differences.

Now, as you corral more and more of the field to yourself by way of the exclusive listing, we have also written certain venal aspects into it, or at least they exist under your demesne and you can rectify them if you wish. One of them is that the MLS is a co-op listing at a six per cent rate, whereas



the exclusives are five per cent, so the tendency is to point out to people that—well, again as the statement says:

For many months now the majority of sales have been made on an exclusive basis at five per cent and many brokers have been using the one per cent saving as an inducement for vendors not to use MLS.

Perhaps there are a number of ways in which this might be rectified if the fault is felt to reach very deep into the situation, as it probably does. One is to make them both the same; make them both five per cent listings so that there will not be the predisposition to gobble up the market. On the other side of the fence there have been proposals to make all listings mandatory MLS listings.

Now, that's a fairly far-reaching measure because there are individuals, the minister tells me, who want to deal exclusively with a particular firm for reasons of friendship or for commercial reasons, and that is very well recognized. But perhaps it can be written into new regulations or law that you could modify the effect of this concentration of the market by making it necessary that if that vendor approaches the board member—or the non board member for that matter—with the exclusive listing and indicates that he wants other participants in on the listing, that it would be mandatory for him to provide room and to co-operate in this particular regard and not hold the listing so close to his own self-interest as is presently being done.

Those are two approaches that could help to some extent. The third approach perhaps would be to reverse the onus and to make the MLS listings five per cent listings and the exclusive listings six per cent, and therefore they wouldn't be so palatable and fetch so much encouragement to keep the things closely confined within that particular real estate firm. Any of these moves would be a considerable alleviation on the market, would benefit the general public and the consumers.

The amounts of the commission at the present time unquestionably have an inflationary effect on an already highly inflationary market. The benefits derived to the real estate people by way of a six per cent as opposed to a five per cent commission rate, since property is inflating all the time, the benefits to any particular firm working at figures of that kind are way out of line and there is no reason, as some of them want and even indicated, to go to seven per cent.

The benefits they are deriving from a five per cent expanding market are really quite ultra-economic, they override what I would

think would be considered a fair return on that particular kind of investment. They were prepared to accept five per cent when they were selling for \$20,000 and they are getting six per cent when the same houses are going at \$40,000 these days.

So these are prospects of what is taking place internally in the real estate profession, which is leading in what I consider a detrimental public direction.

There is another aspect to it too. The rivulets of wealth tend to flow down into the great pools and the banking fraternity, the financial houses, are all entering into the game in a very overriding and strong way. It must be disturbing to you and to anybody who is concerned about the competitive system—which I am not that much concerned about. But in this particular nefarious fashion, I am, and would prefer to opt for a far freer market and a greater deal of accommodation between the members in that market than I would to the pooling of wealth in concentrated hands.

It is not as though these people were producers of wealth, you know. All they do is act in an eminent capacity with respect to its distribution, and the tentacles of those concerned as middlemen and as secondary financiers who walk not in fields of this kind is a most disturbing phenomenon which has existed with us for a long time but is going on apace at the present time.

I would therefore like to hear what the minister has to say as to the use of exclusive listings on one side and the MLS on the other, and the accommodations that I think have to be reached if commercial peace is to be maintained in this area of the economic life of the province.

**Hon. Mr. Clement:** Mr. Chairman, I am aware of the tremendous growth of United Trust in the real estate field. I have not had any representatives of the real estate people here, particularly in Metropolitan Toronto, come to me and speak to me specifically about this particular matter, whether they regard it as a problem or not. If they do I have not learned of it.

**Mr. Lawlor:** Will you receive them if they come?

**Hon. Mr. Clement:** I receive everyone who comes. You ought to see some of the ones I do receive.

**Mr. Lawlor:** Then you will have visitors one of these days.



**Hon. Mr. Clement:** I have also listened with interest to your remarks but I haven't heard any comment that the consumer has in any way suffered as a result of this. As a matter of fact, I would almost surmise that if the growth is as great as you have described, those people who perhaps have utilized the service of that one particular trust company or realtor have perhaps, in fact, saved one per cent on the sale of their houses. We also have many private sales. We see ads in the papers every night, saying "principals only."

I understand that 50 per cent of the people of this province are now engaged in the service industry and some economist has forecast that by the year 2000 it will be as high as 90 per cent. Because an industry is large, and I'm not singling out United Trust, it doesn't necessarily mean that it is acting against the public interest. Efficiencies may be increased; communication and contacts may be increased. The opposite side of the coin is to say that real estate firms shall consist of one individual, so let's break it up. I wonder if the consumer is really being serviced by that type of thing.

**Mr. Lawlor:** Well, you don't have to make it a *reductio ad absurdum*. On the other hand, are you not concerned about the livelihood in jobs of numerous small real estate brokers?

**Hon. Mr. Clement:** Yes, I am.

**Mr. Lawlor:** And their salesmen who are being squeezed out gradually by this ongoing monopoly?

**Hon. Mr. Clement:** I think we have to look at it this way, Mr. Lawlor. We have to look at it on balance. You can't say that we're here only to service the consumer and we're not here only to protect the people in the real estate business. We have to look at the whole thing on balance. I know you would not take argument with that remark.

As I say, I have not had anybody connected with the real estate industry come to me in the last eight months and make reference to this particular firm or the tremendous impact it has had on the real estate industry, negatively or positively, within Toronto. Therefore I can't assume that there is really much area of complaint. You've indicated that perhaps my feeling will be soon shattered.

**Mr. Lawlor:** Yes.

**Hon. Mr. Clement:** I will be glad to receive these people and find out what the problems are.

**Mr. Lawlor:** I want to be very careful in what I say at this time. I suggest that maybe there is a certain hesitation or trepidation on the part of these people because they are members of TREB, Toronto Real Estate Board. While, in my opinion, there are a sizable number of people, they are subject to the emerging power of the larger number who occupy the cheaper seats on the board of directors and what not. It's just a thing not to be easily discounted in terms again of their livelihood. Therefore, they're not all that vocal. But I shall communicate the minister's thoughts to this group and say that you're pleased to receive them and to hear their complaints and I'll tell them to make their complaints well known to you. They may do that without any particular fear of repercussions because those meetings, I take it, are held basically in confidence?

**Hon. Mr. Clement:** Oh, surely.

**Mr. Lawlor:** Good, all right. I'll leave it at that. I have just one question. The small broker cannot share his staff or secretaries or office space or answering service with another broker as an economic matter. Couldn't that be alleviated a little?

**Hon. Mr. Clement:** Mr. Cox.

**Mr. J. P. Cox** (Real Estate and Business Brokers): It's always been a matter of policy not to have brokers share office space or share staff because of public confidence. Someone dealing with broker A may not want broker B to know what's going on and what the price is. Broker A and B can get together and probably make a deal. We've always looked at it from a policy point of view, that if a broker's going to operate his own business he should operate it as his own business and have a separate lockup accommodation. We do know of places where small brokers probably can't afford a secretary and they may have a common secretary but they will have separate lockup accommodation.

**Mr. Lawlor:** You don't mind this?

**Mr. Cox:** Not particularly, provided they have separate lockup accommodation and their own records can be kept secret. We wouldn't want broker A able to go into B's files and see the terms of a contract.

**Mr. Lawlor:** No, I quite appreciate that. Do you think there is a greater danger in having an answering service in common?

**Mr. Cox:** No, I don't. Many of the brokers use the same answering service.

**Mr. Lawlor:** Coming into the same office?

**Mr. Cox:** TAS in Toronto handles probably 500 brokers but they pass on messages, that is all.

**Mr. Lawlor:** Have you heard, if I may ask Mr. Cox, Mr. Chairman, any rumblings about what I was talking about earlier?

**Mr. Cox:** Not really. Now and again some people start the old story of the big fellows freezing the little fellows and that the trust companies are running everybody out of business because they have access to all sorts of funds. I know one trust company in Ontario which gets 90 per cent of its mortgage money from another trust company.

**Mr. Lawlor:** Just a final question: Do you not feel there is some kind of unfair practice or questionable conduct, to say the least, in running a parallel and contrary listing service against one in which you already participate?

**Mr. Cox:** That is a matter for the industry, sir. We specify nothing about listings other than a listing contract will be entered into—exclusive with MLS or whatever is none of our affair. It is not mentioned in our statutes.

**Mr. Lawlor:** I think it transcends your particular responsibility, Mr. Cox, but I suspect it may be a matter of policy for the government, too, touching on restrictive trade practices. No doubt it may have an effect on the new Act.

**Mr. Chairman:** Mr. MacBeth.

**Mr. J. P. MacBeth (York West):** Mr. Chairman, I want to put in one word of plea for a small broker whom I was talking to the other day. He has a good business but he is a small man. He was complaining that he had received a form, I think from your department, that he said was going to take his accountant, who was a part-time book-keeper-accountant, many hours to complete. I know you have to get a certain amount of information from these people but I would think sometimes some of these forms may ask questions that are not absolutely necessary.

**Mr. Cox:** May I ask what the form is?

**Mr. MacBeth:** I am sorry, I can't tell you and maybe I am asking the question with insufficient information. He was just complaining about the amount of time it was going

to take and the cost to him to get his book-keeper to do it.

**Mr. Cox:** I would be very happy to talk to him and sort out the problem with him.

**Mr. MacBeth:** All right.

**Mr. Cox:** We do attempt to inspect all brokers at least once a year. We have certain accounting requirements by which they must account for the funds that are in their care. They must keep proper books and records.

**Mr. MacBeth:** When he mentioned it to me, I didn't think of bringing it here tonight but I will get further information.

**Mr. Cox:** I cannot think of a form that would cause his accountant to spend a lot of time on.

**Mr. MacBeth:** I will get further information.

**Mr. Chairman:** Is this carried?

**Mr. Lawlor:** Just a couple of other matters, if I may, Mr. Chairman.

**Mr. E. M. Havrot (Timiskaming):** Aw, come on!

**Mr. Lawlor:** What do you mean, aw? That is what we are here for. You will stay for six months if you don't shut up.

**Mr. Havrot:** We are here to discuss estimates.

**Mr. Lawlor:** We are discussing estimates; what are you thinking of?

**Mr. Havrot:** You are not even talking finance, you are talking generalities.

**Mr. Lawlor:** You don't know what the business of this House is all about.

**Mr. Havrot:** Dollars and cents, the taxpayers' dollars.

**Mr. Lawlor:** The sooner you learn as a neophyte and dry the wetness from behind your ears, the better.

I want to present this to the minister, and I will just leave it with you, you can look it over. We were talking about interest rates and consumer matters the other day. Mr. Burr of our party has worked out two methods, one of them the previous monthly balance and the other, the average daily balance method. It shows the very large disparity between the two rates of interest that are utilized.



Another matter I want to mention to you and to get your reaction to is the new federal bankruptcy proposals. They are operating in Toronto at the present time. They seem to be of considerable benefit to the poor debtor, the individual who may owe a considerable sum of money and can now get a bankruptcy for \$50. Are you watching that programme or are you aware of it?

**Hon. Mr. Clement:** Information has come into the ministry but I have not personally seen it.

**Mr. Lawlor:** It's certainly an elaborate piece of legislation.

**Hon. Mr. Clement:** Community and Social Services are doing the credit counselling now I saw some correspondence in my office some days ago and I have not looked at it.

**Mr. Renwick:** The federal trustee is handling it in Toronto on an experimental basis, a man by the name of Mr. S. E. MacPherson.

**Mr. Lawlor:** Down on University Ave.?

**Mr. Renwick:** On University Ave. The problem of the overburdened debtor—this is part of the solution of that problem.

**Hon. Mr. Clement:** My staff advise me that our people are in constant contact with this gentleman and apparently it has made a fairly good start. But I am not familiar with it at all.

**Mr. Renwick:** Are you prepared to consider bringing that part 10 of the federal Bankruptcy Act into operation in the province of Ontario—that is the provision for the orderly discharge of debts?

As you know the only consolidation operation that we have got is that by David Scott really—the referee of the first division of the small claims court. Perhaps you would look at part 10 of the Federal Bankruptcy Act. It is optional in various jurisdictions as to whether it comes into force. It provides for propounding a scheme and is a very efficient operation because it is in force in I think about six of the other provinces now. I would ask that the ministry seriously look at this as part of the problem of consumer credit—the reverse side of it.

**Hon. Mr. Clement:** Mr. Renwick, we can take a look at it. I am not really familiar with it, to be quite candid. My staff advises me that the staffing costs of such a programme would be very, very high.

**Mr. Renwick:** Well, would you have another look at it? That has been the perennial answer, but the benefits of it are very substantial in terms of—

**Hon. Mr. Clement:** Social benefits.

**Mr. Renwick:** In terms of relief, the social benefits.

**Mr. Lawlor:** The other area I wanted to inquire about is, does the minister make any studies or have any particular interest in the field of unit pricing—that is, pricing according to ounces or pounds and the disclosure of that?

**Hon. Mr. Clement:** No.

**Mr. Lawlor:** You leave that completely in the federal hands?

**Hon. Mr. Clement:** Weights and measures are federal, as has been pointed out. I can't recall ever looking at any information on it in the form of memos, brochures or publications at all.

**Mr. Lawlor:** I see.

**Mr. Renwick:** The only announcements I have seen recently are in places like the Miracle Mart. As a matter of their own policy, they are going to a unit pricing system. It is one of those marginal things which is designed to assist the consumer. It is not three tins for 37 cents, it is one tin for whatever it is.

**Hon. Mr. Clement:** I am familiar with the concept but I have seen nothing come across my desk on it whatsoever.

**Mr. Lawlor:** There is a release from Consumer and Corporate Affairs of fairly recent date—June 1, 1972—giving a basic picture of that, if you want to take a look at it sometime. That is all the questions I want to ask on this.

Vote 1302 agreed to.

On vote 1303:

**Mr. Chairman:** That brings us to vote 1303, technical standards programme. Item 1, programme administration.

**Mr. Lawlor:** Just one question, Mr. Chairman, to satisfy my friend. The amount in 1972-1973 for services under the first vote was \$14,000. It has risen to \$61,500. Could the minister give an explanation?



**Hon. Mr. Clement:** The Ministry of Labour is now being paid \$37,500 for services, for operation of field offices, Mr. Lawlor.

**Mr. Lawlor:** Did you have some man in that office?

**Hon. Mr. Clement:** We didn't pay for it before.

**Mr. Lawlor:** Oh, you didn't pay for it before. It was one of those—

**Hon. Mr. Clement:** Transfers, yes.

**Mr. Lawlor:** Thank you.

**Mr. Chairman:** Item 1 agreed to. On item 2, operating engineers.

**Mr. J. Riddell (Huron):** In the absence of Mr. Deacon who had to leave, I would like to question this so-called feather-bedding problem where you have to retain an engineer. Let's use as an example a greenhouse where they are using boilers, high-pressure equipment. You have to retain an engineer who does nothing more than periodically check the valves and gauges, to see that everything is functioning properly and there'll be no danger of explosions or something of this nature. We are wondering if, with automation, owners of high-pressure equipment have to retain the services of one in such an unrewarding job?

**Hon. Mr. Clement:** These matters are scrutinized constantly by the board of review and changed from time to time. I have here tonight Mr. Shaw, who is in charge of this particular branch, and perhaps he might offer some comments on Mr. Riddell's question. Mr. Shaw?

**Mr. D. B. Shaw (Operating Engineer):** I don't believe there is any featherbedding, Mr. Riddell, in regard to these greenhouse plants. I'd like to know which plant you are referring to, really?

**Mr. Riddell:** As I say, I am asking this in the absence of Mr. Deacon. If he were here he could probably inform you better. But maybe we shouldn't just deal with greenhouses; maybe you could talk about some other industry where there is an engineer who is sitting around for so many hours a day and all he is doing is checking a few valves to see that everything is functioning properly? Is there nothing more rewarding that this person could be doing? How necessary is it to retain the services of one who

does nothing but check once in a while to see that things are functioning properly?

**Mr. T. A. Wardle (Beaches-Woodbine):** Of course, you have to know which valve to turn. This is where the experience comes in.

**Mr. Riddell:** Yes, but the whole problem is, is there no way that the producer could be trained to check for these things and not have to pay an engineer to do it?

**Mr. Shaw:** I think if you are familiar with the situation in the operating engineer's field you'll find that just 15 years ago we had in the neighbourhood of about 4,500 plants registered with us, requiring an operating engineer in attendance, and now we have only 1,700. They are gradually being de-escalated simply because of automation and instrumentation in these plants.

We have a new type of boiler on the market. It is a coiled-tube boiler, and this is replacing the ordinary conventional plants, and we have daily requests for deregistration and declassification of plants. Anybody familiar with our operation would realize this. Today we have about, I would say, 23,000 stationary engineers on record and only 9,000 employed in this field, and they are getting fewer and fewer all the time.

**Mr. Chairman:** Any further questions on item 2?

**Mr. Riddell:** Well, I'd like to ask—

**Mr. Wardle:** Mr. Chairman, I'd like to ask, on that same matter, is it not true that even though you may have a fully automated plant, a man is still required on the job in case of an emergency? I am thinking of a school, for instance, where the plant may be fully automated but an engineer is required.

**Mr. Shaw:** Not necessarily, sir, because these ratings are based on arbitrary figures set up and the plants under a certain thermal rating do not require engineers in attendance. It is just a matter of safety. Over the years, with experience, we have found that these plants with automated equipment don't require engineers in attendance. They are quite safe. We have had no accidents and no complaints on them either.

**Mr. Wardle:** That would apply to a school, too, would it not?

**Mr. Shaw:** It applies to a school, too.

**Mr. Chairman:** Do you have any further questions?

**Mr. Riddell:** No. I see my next question will come up under this next item.

**Mr. Chairman:** Shall item 2 carry? Item 2 agreed to. Item 3, water and pressure vessels.

**Mr. M. C. Germa (Sudbury):** Can I say something on that, Mr. Chairman?

**Mr. Chairman:** Yes, Mr. Germa.

**Mr. Germa:** I understand that the inspection branch of this department is going to be phased out and that these inspections are going to be done by the insurance companies from now on in. I think you have a phase-out programme going on.

**Hon. Mr. Clement:** Back in 1969, long before my presence around here, Mr. Germa, there was a report. I am sorry, I must apologize because, I can't tell you who prepared that report; but a report was produced that, among other things, generally made that recommendation. I understand 90 per cent of the existing boilers in the province are covered by policies of insurance and are inspected by the insurance industry and 10 per cent are not. In addition, manufacturers of boilers and pressure vessels who manufacture and sell these things utilize the services of our staff.

It has been an area of some concern for some period of time. Early this winter I personally questioned the validity of a report that was produced some four years ago. I don't know whether it is correct in today's terms or archaic now, but I decided to have a fresh look at it to see just what the situation consists of. I have met with every inspector we have in the ministry—every one of them. I have met with a committee of them in addition. I have met with many boiler and pressure vessel manufacturers to discuss this problem with them and I have assured both sides that no policy would be changed or invoked without further consultation and also perusal or examination of the report that I have called for.

**Mr. Germa:** I think you have 19 of these inspectors around the province. Did not a memo go out to them in the last few months that they were going to be transferred to other departments?

**Hon. Mr. Clement:** No.

**Mr. Riddell:** There must have been something, because I am getting the same type of request. As I mentioned to you in the House the other day, I had a person phone me from Goderich, indicating that this new type of

inspection was going to be putting them out of business.

**Hon. Mr. Clement:** No. There was a feeling this Christmas-time or early January that this might be the way it was going to go. That did not go out with any knowledge or consent of me. No memos were issued. It became a rumour that grew just like Topsy, and I had telegrams that thick. We sent for these people and had meetings with them and explained the situation. They are fully aware of it.

**Mr. Germa:** Well, that answers my question.

**Hon. Mr. Clement:** It caused great concern to the inspection teams, to the inspectors themselves, to my staff, and to the industry itself.

**Mr. Germa:** What caused this great amount of rumour and all these telegrams of alarm that came in, then? Was it something that had been precipitated?

**Hon. Mr. Clement:** Somebody got the idea that the insurance companies were going to do all the work.

**Mr. Germa:** And you categorically deny that right now?

**Hon. Mr. Clement:** I categorically deny it as of today. I don't know what this report is going to recommend. I make this assertion, right here and now, as I have to the manufacturers and to the inspectors, that there will be no changes of any substance one way or the other without further and extensive dialogue and meetings with them.

**Mr. Germa:** But you are still thinking about the problem though? You haven't rejected it out of hand?

**Hon. Mr. Clement:** I haven't accepted it and I haven't rejected it.

**Mr. Germa:** Maybe this is what is causing the consternation among this staff of yours. There is consternation around the province.

**Hon. Mr. Clement:** There certainly was; that is a very fair comment.

**Mr. Germa:** There still is.

**Hon. Mr. Clement:** Well, there shouldn't be. I attended down at the Labour Ministry building—I don't know when—and met the staff that were directly involved and told them of my intentions, plans, and so on,



along these lines. It was suggested by them that perhaps they could create an internal committee to discuss this matter with me in detail, and they did that. I have met with the committee. I sent a letter to them yesterday, as a matter of fact, in response to a brief and some suggestions that they had put in. It is a very responsible committee, I might add, and there's constant communication with them all the time.

**Mr. Germa:** If my recommendation carries any weight, I think you should veer on the side of maintaining the status quo because there are a lot of high-pressure vessels which don't carry insurance. Therefore, if your inspection department were disbanded, these things would become a hazard.

**Hon. Mr. Clement:** The whole name of the game, Mr. Chairman, is public safety. There's no question about that. Until such time as technology advances to the degree where you can make a vessel and it is perfectly safe forever, there are always going to have to be inspections.

**Mr. Germa:** I'm not so concerned about that—I'm sure that where the public is assembled you will always look after that. I'm talking about in industry, say, on a scoop-tram operation underground where only one man is involved. Private individuals would not be so concerned about maintaining these high pressure vessels on a scoop-tram, say, as they should be, because there's only one man or two men at the most involved. These things carry very heavy pressures and they have to be maintained.

**Hon. Mr. Clement:** Every service station in the country has pressure vessels right on the premises and they're inspected periodically. The manufacturers are concerned from a marketing point of view, in that Ontario certifications and plates are apparently acceptable just about anywhere in the United States, the other provinces of Canada and on international markets. If private inspections were completed, be it by the insurance company or private consulting firms, the cost would escalate rather substantially and the manufacturers are concerned that they wouldn't be competitive. I'm aware of the situation.

**Mr. Germa:** I can understand a stationary installation like that. I'm talking about mobile installations. I have to be assured that you recognize this as a problem as well. I can see it for the service station, where the public is in attendance, but the rules are—

**Hon. Mr. Clement:** Where anybody is going to be involved, we must be vigilant on it.

**Mr. Chairman:** Were there other questions on item 3? Item 3 agreed to. Item 4? Item 4 agreed to. Item 5?

**Mr. Lawlor:** One question on item 5. For 1971-1972, the last figure that we have, of course, which is an actual expenditure figure, was \$712,000. It has risen in these estimates to over \$1 million.

**Hon. Mr. Clement:** Would you say it again? I'm sorry; I'm listening.

**Mr. Lawlor:** The 1970-1971 figure, which is the last actual expenditure figure—

**Hon. Mr. Clement:** It was \$906,000, yes.

**Mr. Lawlor:** No, \$712,000 was the total amount for the expenditures. It has gone up over by \$300,000.

**Hon. Mr. Clement:** By \$300,000? For 1971-1972?

**Mr. Lawlor:** No, 1970-1971 is the figure I'm using.

**Hon. Mr. Clement:** There's a year in between.

**Mr. Lawlor:** I'm saying these are the last actual figures that we have. As you know, we don't know what your actual figures for last year were. They are only estimates for 1972-1973. I'm going on actual figures. I don't want a breakdown but why the considerable increase in that particular estimate?

**Hon. Mr. Clement:** The increase over last year—are we on that, Mr. Lawlor?

**Mr. Lawlor:** That's right.

**Hon. Mr. Clement:** \$181,200.

**Mr. Lawlor:** Two years ago it was \$300,000.

**Hon. Mr. Clement:** The services that are charged back to the Ministry of Labour make up \$51,400 of that figure. Salary revisions \$107,600; employee benefits \$17,800; supplies and equipment—

**Mr. Lawlor:** Why is there a considerable amount in salary revisions? Have you added considerably to the staff?

**Hon. Mr. Clement:** Just a moment, I can give you the staff figures here.

**Mr. E. Johnston (Financial Management):** Salary revisions. With revisions in salary for



all employees in the government, there were a lot of professional people in there. The rates went up quite a bit higher.

**Mr. Lawlor:** It is the professional staff?

**Mr. E. Johnston:** Yes. And merit increases.

**Mr. Lawlor:** Okay, I am satisfied, Mr. Minister.

**Mr. Chairman:** Item 5 agreed to.

On item 6:

**Mr. Lawlor:** Item 6, again I am looking at the 1970-1971 actual figures—\$14,569—which has risen to \$176,800. Many, many, manyfold. It is not all that great an increase in 1972-1973?

**Hon. Mr. Clement:** Seven thousand, two hundred dollars.

**Mr. Lawlor:** No, I am looking at the last actual figures that you have.

**Mr. J. K. Young (Deputy Minister):** The difference between actual and estimates is only \$800.

**Hon. Mr. Clement:** In the 1971-1972 figures, going back two years, the difference between the actual and the estimates is \$800. The actual expenditures are about \$800 less than the estimates.

**Mr. Lawlor:** I am back another year from you, to the \$14,000 figure. They are no doubt somewhere in your other estimates which I was not handling last year. There must be an explanation for this.

**Hon. Mr. Clement:** The increase over last year's estimates for the uniform building standards is \$7,200, consisting of employee benefits of \$3,600, and supplies and equipment \$3,800. There is a decrease charged against that of \$200 in a salary, and I don't know what that is.

**Mr. Lawlor:** Okay.

**Mr. Chairman:** Item 6 agreed to.

On item 7:

**Mr. Havrot:** There is a large increase there.

**Mr. Lawlor:** This one, over against the actual figures I am talking about, has gone down from 1970-1971.

**Mr. Havrot:** Twenty-four and a half per cent increase in that.

**Hon. Mr. Clement:** The staff has gone down.

**Mr. Havrot:** Is that salary increase?

**Hon. Mr. Clement:** The increase is \$22,900 in the estimates this year over last year, in salaries of \$20,100, employee benefits \$2,800.

**Mr. Chairman:** Any further questions?

**Mr. Wardle:** Yes, Mr. Chairman, I understand that this is the department that looks after inspections such as of mattresses and this sort of thing. In the matter of stuffed toys, there has been discussion in recent months regarding items that are manufactured of material—in teddy bears and this sort of thing—with dangerous parts. Is this the type of thing this department looks after?

**Hon. Mr. Clement:** We are concerned with the quality of the stuffing, that it is sanitary, and this sort of thing, and that it is properly tagged. Our programme is so good that BC won't even consider instituting one. They say everything they buy—and they only buy from Ontario anyway—must have the tag on it. As far as the teddy bear with the long nail through the eye and this sort of thing is concerned, and I think we are on common ground there. It is my understanding that this comes completely under the supervision of the federal people under the Hazardous Products Act.

**Mr. Wardle:** How about items imported into Canada that are sold in Ontario, such as stuffed cushions and this sort of thing? Do they come under your department?

**Hon. Mr. Clement:** Yes, for the marketing. They have to be their standards.

**Mr. Wardle:** How would they be inspected? They would not be inspected, of course, at the customs at all.

**Hon. Mr. Clement:** Oh, by sample, I think. Mr. MacDougall—

**Mr. J. D. MacDougall (Upholstered and Stuffed Articles):** Yes.

**Hon. Mr. Clement:** Oh, there you are. I am sorry. Here's the man that's in charge of teddy bears.

**Mr. MacDougall:** Yes, they are inspected by sampling at wholesale or retail.

**Mr. Chairman:** Further questions?

**Mr. Wardle:** How would you know that a certain firm were distributing this type of an item?

**Mr. MacDougall:** By routine inspection—knowing the points of distribution, wholesale or retail, and by checking these on a periodic basis, and by spot-checking.

**Hon. Mr. Clement:** Complaints too?

**Mr. MacDougall:** Complaints, yes.

**Mr. Wardle:** Is the firm required to register that particular item with that department before distribution?

**Mr. MacDougall:** No, the firm itself is registered, whether it be located here in Ontario or overseas.

**Mr. Wardle:** Oh, I see.

**Mr. MacDougall:** The firm registers for the sale of a particular type of product.

**Mr. Wardle:** You feel that's sufficient to cover the inspection required?

**Mr. MacDougall:** Yes, oh, yes. Yes, it does cover it.

**Mr. Wardle:** Thank you, Mr. Chairman.

**Mr. Chairman:** Carried?

Vote 1303 agreed to.

On vote 1304:

**Mr. Chairman:** It brings us to vote 1304, public entertainment standards programme. Item 1, regulation of horse racing. Mr. Lawlor.

**Mr. Lawlor:** This is always a contentious item and then again it is gone through year by year—perhaps a bit more than the normal this year with the demise of Mr. Lawrence. Perhaps with the new minister coming and a number of points of policy, perhaps we'll get a fresh justification, however weak that may be, for the \$2,140,200 that has been given away to the racetracks while the increases on sales tax go on apace.

I would like to bring to your attention an article by Harold Greer, on Feb. 15 of this year, outlining the situation as he sees it, and test your response:

As formulated last year by Mr. Lawrence, Ontario's position was that the Criminal Code should prohibit the private offtrack messenger shops which had been mushroom-

ing in recent years, should penalize illegal betting and bookmaking much more severely and should permit the provinces, if they wish, to operate or license both off-track and ontrack betting facilities. In such a case the federal government would have vacated its present jurisdiction over ontrack betting.

This was a fatuous attempt at provincial over-reach, and Mr. Lang reacted last year with proposed code changes that instead of letting the provinces taking over offtrack and ontrack betting, would have moved the federal government into the offtrack field as well, while leaving the private messenger shops intact.

As I say, as Mr. Lawrence left the field and Mr. Kerr came in in his place and a more moderate policy, apparently, has prevailed, and Mr. Lang has recanted and modified his stance. He is now prepared to forgo federal control of offtrack betting wherever provincial regimes can be set up which meet certain criteria.

Mr. Kerr has suggested that Ottawa be content with an observer role. That is another point that I'd like to make: Is it your position that they should have merely an observer role on such an authority? But Mr. Lang wants a voting voice, probably because Ottawa is determined to get into its cut from offtrack betting.

Mr. Kerr, for Ontario's part, is no longer demanding provincial jurisdiction over on-track betting. He is also prepared to accept, if he has to, an offtrack system limited to bets on horse racing in Ontario. The original idea was to take bets in out-of-province races as well, including, of course, those in the US where much of legal betting through the present betting shops is being done.

In the terms of the recommendation in this rather elaborate report—where Mr. Lawrence had the opportunity to traipse around the world, to New Zealand, Australia, and various other jurisdictions, in order to pick up information on which there are pages and pages on these various other systems—it says how lucrative they really are, and since you presently lack the wizardry in keeping the budget somewhat intact in terms of deficit financing over against the experience of the previous minister, this would be a most lucrative field it's agreed to universally, for you to enter into with respect to your growing needs next year for the budget.

But on the very point that he mentions about the federal government wishing to have representation, there is no room for it whatsoever. A 15-member board is proposed; eight members would be appointed by the government and seven would be from the industry—various sectors, the Thoroughbred Horse Racers Association, and a number of the standard-bred and others.

How again do you react to that and what is your position as to permitting the federal government a role and place on it? And one further question, if I—

**Mr. Chairman:** Well, Mr. Lawlor, it being 10:30 we will adjourn until 11 o'clock in the morning.

**An hon. member:** What time is it now?

**Hon. Mr. Clement:** I might just add in conclusion, Mr. Lawlor, if I may, there is

nothing in these estimates of course that relates to offtrack betting.

**Mr. Lawlor:** No, but we have always discussed it here.

**Hon. Mr. Clement:** Yes, all right; I am quite willing to discuss it.

To say it in a nutshell. I have no preconceived notions one way or the other about offtrack betting. I am not very familiar with it as contained in that report. Last fall I read the report with some interest, but I really had no philosophy about it one way or the other.

**Mr. Lawlor:** Well, what is the provincial involvement in offtrack betting?

**Hon. Mr. Clement:** There is none right now, absolutely none. But you see the Criminal Code, as I understand it, has to be amended.

The committee adjourned at 10:30 o'clock, p.m.

## CONTENTS

Thursday, May 17, 1973

Commercial standards programme, concluded .....	S-487
Technical Standards programme .....	S-510
Adjournment .....	S-516





# Legislature of Ontario Debates

## STANDING COMMITTEE ON SUPPLY

Estimates, Ministry of Consumer and  
Commercial Relations

Chairman: Mr. J. A. Taylor

OFFICIAL REPORT — DAILY EDITION  
Third Session of the Twenty-Ninth Legislature

Friday, May 18, 1973

Speaker: Honourable Allan Edward Reuter  
Clerk: Roderick Lewis, QC

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973

## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

FRIDAY, MAY 18, 1973

The committee met at 11:15 o'clock, a.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1304:

**Mr. Chairman:** We have a quorum and last evening we left off with vote 1304, item 1, regulation of horse racing. Would you like to continue with that, Mr. Minister?

**Mr. J. Riddell (Huron):** Is my predecessor not going to be here for this?

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** I don't know, he may be at the track.

**Mr. P. D. Lawlor (Lakeshore):** He found a better place.

**Mr. Riddell:** If I had thought I wouldn't have had a chance to take a whack at him, I would have gone home this morning.

**Hon. Mr. Clement:** Well, now, you are not a vindictive man, Mr. Riddell.

**Mr. Chairman:** Yes; Mr. Lawlor, maybe you could continue.

**Mr. Lawlor:** The Conservative members of the committee took up the whole afternoon yesterday, quite legitimately, but there should be a small amount of room for the opposition around here.

**Mr. T. A. Wardle (Beaches-Woodbine):** We were just reversing the tables, Mr. Chairman. We like the philosophy, we appreciate the fine words and this sort of thing; we are very patient on this side. I think Mr. Lawlor realizes that.

**Mr. Lawlor:** Your patience hasn't been tested yet.

I made a general statement as to the disposition of affairs, I thought, and the background considerations that have thus far gone into the relationships with Mr. Lang on the federal government amendments to the Crim-

inal Code in this particular area. I suppose what it comes down to is, what is your present position and what is your disposition?

**Hon. Mr. Clement:** Well, offtrack betting per se is obviously not the responsibility of the Ontario Racing Commission at this point. I have no personal views one way or the other about it eventually being incorporated as a responsibility of this ministry, either under a separate board or as an extension of the Racing Commission per se. I just haven't come to any fixed conclusions on it. We have discussed it in our policy field, but more in relation to the legal barriers that presently exist, with which you are familiar, which have to be clarified by the amendments to the Criminal Code before we can implement any programme of offtrack betting in this province.

**Mr. Lawlor:** In conjunction with the overall ministry, and having a fairly determinative role in it—at least a role that has been assumed by previous ministers of the department—your answer has to do with a rather narrow interpretation of your role, I suspect. In any event, the betting shops continue, not quite to flourish—I don't think you can say that any longer—but to be operative in the Province of Ontario. They are a source of criminal focus, an ongoing running sore in the community. Have you any idea of what Mr. Lang is proposing to do with these amendments to give you the jurisdiction?

**Hon. Mr. Clement:** I understand there has been a meeting, or two meetings, between the Attorney General of this province (Mr. Bales) and I believe the justice policy minister (Mr. Kerr) in relation to this problem. As I understand it, Mr. Lang finds himself in a bit of a quandary in that the proposals of all the provinces are not similar, and as you can very quickly appreciate, any amendments to the Code will be applicable across the entire country.

I think the federal Minister of Justice finds himself in the position of having to draft amending legislation to the Code that fits the various requirements and desires of each individual province, as well as being in line with the general federal policy regarding wagering and betting.



Mr. Lawlor: Well all right, I am not going to press it any further this morning. You may be right. My clear recollection is that we did go into it quite deeply with your predecessors in title. But with the superminister, I suppose the better thing to do—and I kind of feel badly that I didn't do it now when I was acting as critic to Mr. Kerr—was to go into it deeply with him. I thought I would wait until this opportunity; but there will be another day and the usual reckoning.

One final word on this vote, so far as I am concerned—and I must do this, not just as a matter of ritual but as a formalistic exercise—also, we do inveigh, and I think legitimately inveighed down through the centuries, about the \$2 million, always increasing, going out to the horse breeders, and largely to the pockets of Mr. E. P. Taylor—down through the centuries, as I say—when other needs are far more afflictive, when welfare recipients are not given anywhere close to the shake to lead lives of human decency and dignity.

This kind of grotesque lack of priority and a sense of what you are going to use the resources for—tax from the poor to give to the rich—we find unpalatable. I am obliged to say so; it gives me some pleasure in doing so. I would like to go on at much greater length about it, just to get it out of my system for another year until I can build up a head of steam for a future occasion. However, we don't want to prolong the thing unduly; I have put myself on record, and I would like your response as a new minister in this regard as to what you think about this.

Hon. Mr. Clement: I think there is one thing we should not lose sight of, and this applies possibly more to my ministry than almost any other ministry, Mr. Lawlor, and that is that while we talk about estimates and expenditures, at this table we never talk about revenues. A good number of the operations within the purview of my ministry are very positive revenue-producing activities, and horse racing within this province is one of those activities. The companies branch is another one. If we could look at a balance sheet as you know it, you would be very much impressed with the amount of activity in revenue generally. The registry office—and we will get into that later on—

Mr. Lawlor: Oh yes, you are doing all right with the registry office.

Hon. Mr. Clement: Yes; very, very lucrative.

So while the estimates may go up, you have to look at the additional workload and

the additional revenues that are generated. I have the figures here for 1972, and provincial taxes were roughly \$23.2 million, and that covered a total of 1,240 racing days within the province.

It also might be significant for you to note that the amount wagered was roughly \$331.1 million. Almost \$2 million was generated in federal tax and the attendance at the track last year was 5.2 million in round figures. Obviously, it is an area of great interest so far as a spectator sport is concerned, as well as an interest of those who are unable to attend the tracks but demonstrate their interest by placing bets.

Mr. Lawlor: You don't subsidize the football players of the Argonaut team.

Hon. Mr. Clement: No, and we don't get any tax from it either.

Mr. Lawlor: You do; not in a direct way you're talking about.

Hon. Mr. Clement: Not as directly as we do in this type of operation.

Mr. Chairman: Mr. Riddell.

Mr. Riddell: Considering the revenue that is generated at these racetracks, do you not think a percentage of that should be going directly to the municipalities, because after all they are the ones who are responsible for building and maintaining roads and giving the services to the people to get into the racetrack, plus the fact they are very often called upon to provide police protection—so some of the police are taken out of the municipalities to protect the public at the racetracks—and very often they are called upon for fire protection as well? So these services are coming out of the municipalities, and yet the municipalities are not receiving, directly, a percentage of the revenue taken in at the racetrack.

Hon. Mr. Clement: Well, I would submit that the Treasurer (Mr. White) is probably best equipped to make a comment on that, because I am just not aware of any special tax grants paid to municipalities which have racetracks within their boundaries. I am just not familiar with whether that is the case.

I do know that the racing industry in this province provides a tremendous amount of employment for people within the province, with over \$330-odd million being wagered within the province, and a good amount of those dollars are spun off in forms of moneys spent within municipalities for salaries and

taxes, things that are purchased at the track, such as admissions, concessions at the track and this sort of thing. I suggest very strongly that a very great benefit accrues to the municipality which is fortunate enough to have this type of activity in it.

Your suggestion is not foreign to me, because in my municipality I have 15 million visitors anticipated this year, and I suggest that 15 million visitors kick more hell out of the roads and put more strain on the municipal services than in a comparable municipality that might only have 100,000 visitors in a year. That is something with which I find great sympathy, because when all the dust settles at the end of the year, while there may be some \$250 million spent this year by tourists in the city of Niagara Falls, the ratepayers there in turn bear the cost of repairing the roads, subject to the grants they get, which are standard, as I understand it, across the entire province. I have some sympathy for what you describe; and we have our problems with traffic and this sort of thing, too.

**Mr. Chairman:** Mr. Drea?

**Mr. F. Drea (Scarborough Centre):** Mr. Minister, in terms of the subsidy on breeding, last year if I recall correctly, I think it was Brig. Wallace who at that time was the chairman of the commission—I am sure the members of the committee and those interested in racing across the province certainly wish him well in his retirement. I think he did an outstanding job as head of the commission and I am sure our new chairman will do an equally outstanding job.

I think last year we were raising the point that certainly the awards to the thoroughbred breeders are essential if we are to continue having a high-class racing product at the thoroughbred level. I point out to the minister today's paper in which the Blue Bonnets track in the city of Montreal is faced with closing down its thoroughbred operations because of inability to attract a sufficient number of horses. It was literally down to four or five horses in a race, and as everyone who attends horse racing knows, when you get a rather limited field like that there is (a) very little interest from the public; and (b) very little to be gained through the pari-mutuel betting.

It is through the ability of the Ontario Jockey Club and the Ontario breeders that there are immediately available a number of thoroughbreds—I think, if memory serves me correctly it is 150—which will be transferred

to Blue Bonnets. Of course, this is going to pay rather handsome dividends for the Province of Quebec, because it is in the same position as we are in regard to tax on the parimutuels, tax on admittance, various sales taxes on the concessions and so on and so forth. I certainly think that at the thoroughbred level, the breeding awards are an indication of good sense.

Also, Mr. Chairman, I would like to point out that in this province, in another ministry, we are at the moment seeking exports of very merchandiseable commodities upon which the high level of our economy depends. If I recall correctly, I asked Brig. Wallace last year if there was any indication of how much, in terms of the export of thoroughbred stock and the breeding in Ontario of thoroughbred stocks, was eventually bought by Americans or by Europeans. This indeed had become an export industry. If I recall correctly, the percentage he gave of the dollar volume of the sales of the Canadian breeding industry elsewhere was quite impressive.

Having said that about the thoroughbred awards, last year I also asked for the list, mind you it took some time to compile, of the standardbred awards. The reason I was interested in that is I think standard breeding awards are as significant to the development of the sport. I think they have a far wider application to the development of the sport because they are concentrated among relatively small farmers. I want to qualify that—small in net; let's put it that way.

The bulk of that money does go to the smaller farmer and the bulk of that money is returned to the smaller communities in terms of the class B tracks. I know last year we were concerned that certain costs and certain trends of the industry might be easily ridden out by the thoroughbred breeder, because he is on a much larger scale, and now I am somewhat interested in the position of the smaller person, not only on the class A circuit of the standardbred but more so on the class B. I think this has always been of concern on our side of the House.

There are a couple of other areas I want to come to, but what I am really interested in is has there been any development or more apportioning of the breeders' formula toward the standbred owners in the last year than has been the case before?

**Hon. Mr. Clement:** I would say so, Mr. Drea. Your points are very cogent, particularly pertaining to sporting horse flesh as a business and not only as a lucrative business—



**Mr. Drea:** I go, Mr. Minister!

**Hon. Mr. Clement:** Well, you may be interested—

**Mr. Drea:** I am very glad the Chairman isn't here today. I intend to use his parking place.

**An hon. member:** That is where he is.

**Mr. Drea:** Not yet; it is too early.

**Hon. Mr. Clement:** Last year, in 1972, there were 955 breeders' awards paid by the province to standardbred owners, totalling \$267,000. Thoroughbred awards totalled 202, totalling \$125,000. I am rounding those figures off—it was \$124,912.

**Mr. Drea:** What was it for the thoroughbreds?

**Hon. Mr. Clement:** The thoroughbred was 202 breeders' awards paid by the province, totalling \$125,000. You contrast 202 with 955 in numbers, and contrast the amounts of \$125,000 and \$267,000.

The breeders' awards have improved, and hopefully are going to continue to improve, the stock, the blood lines of the horses, both standardbred and thoroughbred, within the province for export. As you have so rightly pointed out, the smaller operator, if I may describe him that way, who is in the standardbred business is encouraged. The lines, as I understand it, are subsequently being improved from year to year.

You might find it interesting to note that in 1960, going back 12 years, the thoroughbred awards totalled 146, totalling \$65,000; and the standardbred awards totalled 288, totalling \$19,000. I won't bore you with the figures all the way through, but standardbred awards, both numerically and in dollars, have been pulling away from the thoroughbred awards since that time.

**Mr. Drea:** I would also like to suggest to the minister that standardbred breeding is now becoming a bigger industry and in many areas, particularly for the class A circuit, it has now become as capital-intensive an industry as thoroughbred breeding. I would certainly hope that as this trend develops, we take the position in terms of guidelines that we are just as interested in helping the smaller farmer who is breeding perhaps one or two horses a year as we are in assisting the larger operators. While it would be naive to suggest, although I suppose it could happen, a small breeder might come up with an outstanding horse that would eventually

yield us export dollars, but the other ones do as a matter of course.

Nonetheless, for the provincial trade and the preservation of the small-town tracks, I think the awards are good. Frankly, in a great many smaller communities in central and eastern Ontario there may be six or seven small farmers and a couple of school teachers and so forth who all have a \$25 or \$50 interest in a particular trotting or pacing horse. I think this is not only good for the racing industry, but indeed is good for the community because this is a legitimate form of entertainment in the smaller community. The trends in entertainment, again, are to the disadvantage of the smaller community.

**Hon. Mr. Clement:** You may be interested to know, and perhaps you are aware of it, that the Racing Commission, under the chairmanship of Brig. Wallace, is going to study this aspect that you touched on in some depth. It was decided some six or seven months ago, I believe, by the brigadier. At that time in view of the fact that his term of office was almost expiring, he felt it would be wise to delay it until after the first of the year when the new chairman was appointed, so that the study could continue with the same group. I understand that is the position they are in now.

**Mr. Chairman:** Mr. Wardle.

**Mr. Drea:** Well if—

**Mr. Chairman:** I am sorry, you are not finished yet.

**Mr. Drea:** That is what I was coming up to before, so I guess I'll wait another year. But I have as much confidence in Mr. MacNaughton as I did in Brig. Wallace. I may not even appear next year, I may give you a treat.

One last thing—

**Hon. Mr. Clement:** It would be our loss.

**Mr. Drea:** Hm!

**Hon. Mr. Clement:** It would be our loss if you disappeared.

**Mr. Drea:** Oh, I'm sure, I'm sure! Mr. Lawlor and I will go elsewhere and settle some problems.

**Mr. Chairman:** Let the record show that.

**Mr. Lawlor:** I was here last night.

**Mr. Drea:** Hmm?



**Mr. Lawlor:** I was here last night.

**Mr. Drea:** No; I said maybe you and I will go elsewhere and settle some problems next year.

**Mr. Lawlor:** Yes; to some boxing ring!

**Mr. Drea:** I know that at the moment it really isn't your baby, but nonetheless, since you are in charge of horse racing, I think there should be some mention made of the continuing dilemma in the field of offtrack betting. On the one hand the economic barometers are back up enough so that the tracks are not in the position they were a couple of years ago when their revenue was being sliced considerably, both by the economic recession, which was about two per cent of their downfall, and the offtrack betting, which was about four or five.

By and large, Mr. Minister, I think the Attorney General's Ministry and the provincial police and other police forces have come to grips with the illegal offtrack betting, as have the courts. But essentially we are right back where we were five or six years ago—I guess it's about seven years—when the gentleman next to your riding, in Welland, decided one day he would operate a service for the man on the street, the same as the Jockey Club did for a man in the clubhouse, and take bets to the track.

So we are essentially right back there. It has always concerned me a little bit, in this province, that on one hand, as with every other jurisdiction, we are concerned with tapping legitimate sources of taxation, especially those where there are large loopholes. As a matter of fact in the offtrack betting area at the moment, since it is totally illegal, with the exception, presumably, of some income tax, there is a 100 per cent loophole.

At the same time the federal government, particularly the present Minister of Justice, has a monumental lack of knowledge about what either Quebec or Ontario require in this field.

It seems to me, Mr. Minister, that this year may be the time we get our feet wet. It seems to me this question of offtrack betting, particularly the type of offtrack betting envisaged by the former Provincial Secretary for Justice, Mr. A. F. Lawrence, through his task force; it seems to me that perhaps now may be the time for the province to get into it. If it turns out in a test case in the courts that we are proceeding improperly or do not have the sanction under the Criminal Code to do it, then I suggest to you we turn around to Ottawa and we give them another chance.

It just seems to me that year after year we make presentations. The last three Attorneys General—Mr. Wishart, Mr. Lawrence, Mr. Bales—have made presentations to Ottawa. I suppose to be fair to them, the federal government, through its last three Ministers of Justice, has responded; but unfortunately every time they respond it is not the type of legislation we feel we can go on with. It just seems to me that until we force the issue in this province there is going to be no remedy on this jurisdictional impasse between the provincial and the federal government.

I suggest to you, Mr. Minister, that while everything may be quiet now, within a year or two there is going to be some other attempt by people outside of government to get into offtrack betting, and we are going to be into another four or five year cycle of prosecutions, of test cases. I suggest to you that the amount of money and time and talent that we spent in the court process in determining that non-government offtrack betting was indeed legal—I think the final determination was only a couple of weeks ago, after all of this time—we could just as well have spent that time and talent and endeavour in attempting to get a system going. If courts found we had exceeded our authority, then I suggest to you it is a very simple remedy to go to Ottawa and say: "All right, we have shown you that you haven't come up with the law you promised you would. Here are the terms that are set down by the high courts". And that would be it!

I don't think the public would regard us as less than smart for doing so. I think the public wants something done in this particular area.

**Hon. Mr. Clement:** I would be concerned with that avenue of approach, that is if we went ahead on our own offtrack programme and it was found out very quickly some time thereafter that we in fact did not have the authority to proceed. Then the people we had staffing the offtrack operation, assuming they were civil servants and so on, would be prosecuted and obviously convicted under the Criminal Code. We'd be placing ourselves in a position of breaking the law of the land, the federal law as it applies in Ontario; as well as burdening those individuals with criminal convictions.

**Mr. D. M. Deacon (York Centre):** Mr. Minister, are you really serious about that?

**Hon. Mr. Clement:** Sure!

**Mr. Deacon:** Do you really feel the government of Canada would allow something like that to go on?

**Hon. Mr. Clement:** I think the Crown attorney in an area might well be directed, or act in their own initiative to charge people.

**Mr. Deacon:** That is correct; but don't you think under those circumstances the federal government would immediately take action to clarify the situation? That doesn't mean—

**Hon. Mr. Clement:** This is the hope that Mr. Drea is expressing.

**Mr. Deacon:** It is not a matter of a hope, they have expressed publicly their intention to do so.

I cannot see, in view of the public statements they've made with regard to the matter, that they could do otherwise but introduce immediate legislation.

**Hon. Mr. Clement:** They may not make it retroactive; and I would just be afraid of jeopardizing a lot of people who would be facing criminal prosecution through conducting an activity that isn't allowed.

**Mr. Deacon:** Surely, there is correspondence between your office and the federal government on this matter.

**Hon. Mr. Clement:** I'm not in on this. I want to stress this; I'm not corresponding with the federal government on it at all.

**Mr. Chairman:** I don't think we should speculate as to what the federal government may or may not do.

Would you continue, Mr. Drea?

**Mr. Drea:** One last thing, Mr. Minister, I was going to raise the question—

**Mr. Deacon:** This is the sort of thing that really frustrates me!

**Mr. Drea:** One of the areas I would hope you might consider in your policy field, which would, I think—Mr. Deacon jumped in a little bit prematurely, I wasn't suggesting the—

**Mr. Deacon:** I'm sorry, but I find this sort of reason for not doing anything is so inexcusable; the public just can't accept that sort of position.

**Mr. Drea:** I think had you heard me out you might not have plunged in so quickly.

What I was going to suggest, Mr. Minister, and I agree with you there is no sense in

hiring 300 or 400 people and using them as a guinea pig operation. But, there is one proposal I hope would be studied very carefully by you as the minister in charge of racing where betting, ontrack betting, is now allowed, and as the operative ministry in the policy field concerned with betting per se; and that is the proposal that bets be allowed, on a credit card basis, to be phoned directly to the track.

**An hon. member:** We'll look at it.

**Mr. Drea:** Now then, I know I have taken a very stringent position. I don't think you should have betting on credit. I think that anything we get into we are going to be very careful on.

But certainly there are proposals now where people who are in a position to place bets, and who nominally do attend the track and place rather large bets, would be issued a form of identification card with which they could phone directly to the track and lodge their bet. Now the reason I suggest this is I think this overcomes the difficulties in a test case in this field in that there are no employees involved.

The particular employee who is involved would be at the racetrack, a part of their operation. Secondly, it would avoid the building of installations, the computerization, all of those things. Thirdly, if indeed our position is upheld, that the present federal legislation is not enabling enough for us to get into this, if there were charges laid under this in a test case, this would be, I think, a very expeditious way of clearing the air between Ontario and the federal government as to what type of law is required.

If this presentation hasn't been made, it is going to be made. This is very essential as it relates to our revenues in the province and to your offtrack revenues, incidentally, as well as the revenues that go to the small tracks and the employment at the tracks. There are a great number of ramifications in this. I think this might very well be a very discreet—if we can use that word—a very discreet and safe way of ending the impasse.

**Hon. Mr. Clement:** For those in the committee who are not aware of it, we do not handle the money at the tracks; that is 100 per cent under the supervision of the federal government. I know that there are some here—Mr. Drea and others perhaps—who are aware of that. That suggestion might well bring this problem to a head, because if there were charges laid under the circumstances you have suggested, they would be



laid in effect against people directly under federal supervision. That may bring it to some kind of a head.

**Mr. Drea:** I would hope without the dislocation of others, because I see no reason to hire 300 people and then let them go three or four months later because the federal House is not in session. I think sometimes we presume that legislatures are always in session and can pass legislation within a day or two.

**Mr. Deacon:** They can be called into session.

**Mr. Drea:** Well, I hardly think the federal government would call the House into session to help Ontario.

**Mr. Chairman:** Is that the last of your questions, Mr. Drea? Mr. Wardle.

**Mr. Wardle:** Mr. Chairman, I don't know whether my remarks would be better directed at this point to the Attorney General, but they have reference to Sunday racing at Greenwood Raceway, which is in my riding.

I should like to say, Mr. Chairman, that in my experience as a youngster in that particular area, what is now Greenwood Raceway had meets of about two weeks in the spring and two weeks in the fall each year. To the north of this track is quite a large residential area that was developed about 60 years ago—and some houses were built on 25-ft lots with no side drives.

Over the past several years, as you know, the flat races and the trots have taken up most of the weeks of the year at the Greenwood Raceway. And even though the Jockey Club Ltd. provides ample parking spaces within the grounds, and has leased land to the west of the track from the Metropolitan Toronto corporation, the streets for blocks around are plagued with a parking problem. Most of the houses do not have side drives, and this has been a source of concern to the residents of that area for many years.

Several years ago the Jockey Club Ltd. applied for permission to have Sunday racing at the new Woodbine track and at Greenwood Raceway. As an alderman in that area, I attended a number of public meetings; and we had petitions with hundreds of names from people living in that area. As a result, the city of Toronto, by my motion, advised Metropolitan Toronto that they were opposed to Sunday racing at Greenwood Raceway.

When it came to the Metropolitan executive committee, I appeared before that com-

mittee—in fact, I was a member of that committee at the time—again in opposition to Sunday racing at Greenwood. My opposition was not on the basis that I had anything against Sunday racing or because the people in that area had any moral attitude in opposition to Sunday racing, but merely because of the inconvenience to the residents.

Some of the meets take place during the afternoon; and there are parking and traffic problems. When they are held in the evening, again there is a problem. When they are held on Saturday afternoon, there is no parking for blocks around for any of the residents there. They come back with their groceries or whatever, but they can't get anywhere close to their homes.

As a result, Sunday racing was allowed at the new Woodbine track, since there had been no objection whatsoever from any person before that committee in that case. But the Jockey Club Ltd. withdrew its application for Sunday racing at Greenwood Raceway.

I should say that the Jockey Club Ltd. has been very co-operative with the residents in many areas. As far as the traffic problem is concerned, if it is an afternoon meet, the meets are finished at about 4 o'clock so the cars are away before the evening rush. The Jockey Club Ltd. has also managed to bring the noise problem under control, and it was good enough to spend about \$25,000 in plantings around the track to make it more attractive. But in the past few months there have been rumours that the Jockey Club Ltd. is going to apply again for Sunday racing at Greenwood, which in their judgement, I suppose, would be a very good day for their operation.

My thought in bringing this matter before this committee today is to record the fact that I think Sunday racing, if it were allowed at Greenwood, would be a mistake. Right opposite the track we have a very large church that has several services on Sunday. Sunday is the only day when relatives of the people living there can visit. If Sunday racing took place, they just would not be able to visit in the area of that track. So, Mr. Chairman, for the record, I would like to say that I hope Sunday racing would not be allowed at Greenwood.

In the past few weeks the Toronto city council passed a motion that it was opposed and it sent it on to Metro council, which has taken the same attitude. Now I know this is a municipal bylaw. As long as the municipal council is opposed to Sunday racing, the



necessary bylaw to allow it would not be passed. What the residents there would like very much, Mr. Chairman, is for the provincial government, by some legislation, to ban Sunday racing, if this is something that should be done, to assure the residents that for all times, or in the foreseeable future at least, Sunday racing would not take place at the Greenwood track.

I don't think I need to say any more, Mr. Chairman. I speak, I know, for the residents of that particular area in bringing this to the attention of the Ontario Racing Commission, so the matter will be on the record.

**Hon. Mr. Clement:** Thank you, Mr. Wardle. Just in conclusion, it is my understanding that no licence for racing will be issued by the Racing Commission for Sunday racing unless it has been approved by a bylaw of the municipality in which the racing is to be held. The province has always regarded these matters as areas of municipal discretion. They know their own area best, and once a municipality creates the bylaw approving the Sunday racing then it is incumbent upon the Racing Commission to follow that up by issuing a licence, all other things being equal. If we at the provincial level pass legislation saying there shall not be any Sunday racing, then I would think we could anticipate a great deal of criticism from municipalities, which would then turn to us and say: "Here you are again at Queen's Park telling us what's best for us in our own area. We know best. Keep your cotton-pickin' fingers off our business."

**Mr. J. A. Renwick (Riverdale):** Mr. Chairman, may I just interrupt at that point? How many other tracks are there which are located right in the heart of a residential area?

**Hon. Mr. Clement:** I can't answer; I know there is some—

**Mr. Wardle:** Mr. Minister, I speak only of the Greenwood Raceway as a unique situation in a residential area; I know of no other track in Ontario, to my knowledge, that has this unique situation.

**Mr. Renwick:** That's the problem.

**Hon. Mr. Clement:** There may not be any, I don't know. Oh; London, I am told by my staff.

**Mr. Renwick:** London? My riding, of course, is right adjacent to the Beaches-Woodbine riding, but the popularity of Sunday racing is in inverse ratio to the distance from the track, and in my riding it tends to

get quite ambivalent as people want to go to the races. But the singularity of it, on which I tend to agree with Mr. Wardle, is that a municipal bylaw with respect to that track in fact imposes something tantamount to a nuisance upon the people in the immediate area. I think the nuisance factor of it happens whenever there's a meeting. It is not unreasonable that a special exception will be made for the Greenwood track with respect to Sunday racing, particularly and perhaps even more so in that part of the city than elsewhere, where it would be a relatively quiet time or an anticipated relatively quiet time.

I agree with Mr. Wardle that it's the uniqueness of it that I think does require special attention. I just can't conceive that the city of Toronto is going to feel affronted or view it as an intrusion on municipal autonomy, if the Racing Commission recognized that this is, for that day anyway, a real nuisance in the area.

**Hon. Mr. Clement:** As I understand Mr. Wardle's comments, they pertained mainly to the nuisance, as you have described it, being created by the cars parked on municipal streets and this sort of thing.

**Mr. Wardle:** We also, of course, have a prime recreational area down there with an Olympic-size swimming pool and a beach area where thousands of people from all over the Metropolitan area come to the beaches, the boardwalk, and the other attractions we have in that particular area on a Sunday afternoon. With Sunday racing it would become a dreadful situation, I would suggest.

**Hon. Mr. Clement:** Could the problem not be alleviated considerably in the best interests of all concerned if tighter parking control was maintained in that area?

**Mr. Wardle:** One of the problems is the fact that there is parking inside the grounds for \$1, or 50 cents a little further away, but when they come down they take over all the free parking at the foot of the lakeshore walk.

**Hon. Mr. Clement:** And then the residents have no place to park.

**Mr. Wardle:** To save 50 cents they will park on the street and walk a mile. In the afternoon when the meet is over, or in the evening, there is lots of parking. As soon as the track is closed, they all leave and there is no problem. They even park in people's driveways or across people's driveways. In a hurry to get in for the first race, to get the

money down, they don't care where they park.

**Hon. Mr. Clement:** If you had a complete parking ban on all those streets, you would primarily affect the people who live there, who have to park in front of their homes.

**Mr. Drea:** You virtually have it now. I have been there, driving through the area, when the police decided it was better to try to end it all. They had their yellow tow-trucks all over the place; and all that did was create a worse traffic jam towing cars away. The very next Sunday it was the same.

**Mr. Renwick:** I would certainly doubt whether a parking ban would work. It would just be disregarded.

**Mr. R. Haggerty (Welland South):** Mr. Chairman.

**Mr. Chairman:** Have you finished, Mr. Wardle?

**Mr. Wardle:** I think those are my remarks, Mr. Chairman.

**Mr. Haggerty:** I have the Fort Erie race-track in my riding and I find it is an exceptionally good organization to get along with. In fact, the municipality has an off-street parking ban on certain areas around the race-track and it works out very well.

**Mr. Renwick:** That's a small meeting over there.

**Mr. Haggerty:** No, I wouldn't say that. We have a large group of Americans who come in and pay their respects to the track when the racing meet is on. Perhaps we have had a more efficient police force, although it may be smaller, but it certainly has brought results.

The matter I was concerned about was that Mr. Wardle mentioned, with respect to the control of Sunday racing, that perhaps there will be pressure brought or lobbying done to local council to have Sunday racing at Greenwood. The position taken in the municipality of the township of Bertie, and I was a member of that council at that time, was that we put it to a plebiscite of the people in that area. They made the decision and it was not done by municipal bylaw. They said if you want Sunday racing, you go out, and if you can get the majority of the people to go along with it, then there will be Sunday racing.

The particular concern I had at that time was, and I think the debate here in the House was, that the employees of the track,

and even the jockeys, would like to have Sunday at home with their family instead of being at the track racing on Sunday. The main concern is the employees of that track. Should they have the time to spend at home with their families, the same as the biggest majority of all the other people in Ontario?

I find, as I have said, the racetrack, and particularly the Ontario Jockey Club, very good citizens in the Fort Erie area. They have often made the grounds of the Fort Erie track available for other community services and needs. I can think of the bingo that is held there by the Lions Club in the Fort Erie area; it brings in quite an amount of revenue for their different projects in the community. They are very generous in supplying the grounds and facilities for such fund-raising needs in the community.

**Mr. Chairman:** Mr. Renwick had a comment on that.

**Mr. Renwick:** On a different matter.

**Mr. Chairman:** Oh, I see. Well is this on the same matter, Mr. Wardle?

**Mr. Wardle:** Yes. It is just in answer to Mr. Haggerty. I appreciate his remarks, and I think I did indicate that the Ontario Jockey Club, or the Jockey Club Ltd., the correct name, has been very co-operative.

When I was an alderman down there they would open their grounds Sunday afternoon to allow parking for people attending the Olympic pool in the Beaches area. They give the grounds for a week to the Beaches Lions Club. They are very co-operative. I have had no complaint whatsoever about that. They are a good citizen in that area.

However, I didn't get into the matter of people having their Sundays free or anything of that kind, just the inconvenience. I suppose if you took a plebiscite of the whole area maybe it would be in favour, but my concern is of people living directly at the track. They are concerned, and it is a real concern where they have no side drives; and there is also the traffic problem and the danger to children in that particular area. I base it only on that, with no reference at all to the matter of Sunday racing as another—

**Mr. Haggerty:** I quite agree with your views in that, because I know at the Fort Erie track, particularly at the time that the track meet ends, the police are out there and all other cars or vehicles are stopped until they get rid of that large amount of traffic



coming out of the track. Of course, with the new overpass that is being constructed and almost completed by the MTC, I think this will solve some of the problems in the Fort Erie area; and it is well appreciated, particularly by this member, that they have gone in there and done the work finally.

**Mr. Wardle:** When the traffic near the park becomes a problem, when the residents call the local police department they do come; but they tag every car parked on the street, including the residents, and this doesn't become a helpful solution.

**Mr. Chairman:** Did you have a point, Mr. Drea?

**Mr. Drea:** Yes, I did.

**Mr. Minister,** let's face the facts on this one. This is going to have to be decided by your Racing Commission, because the only reason that there is now a thrust to have Sunday racing at the Greenwood track is because of the dates allocated to Mr. Ray Connell at his new track up in Hamilton—what is it, Flamborough Downs or something?

**Hon. Mr. Clement:** Flamborough Downs.

**Mr. Drea:** In the beginning—and Mr. Haggerty is quite correct—there were plebiscites. There were plebiscites held in Bertie township for Fort Erie. There was one held in St. Catharines about Garden City. All right, they came to Metropolitan Toronto. How could you hold a plebiscite in Metropolitan Toronto involving two tracks?

One of them is in Etobicoke, and there is no problem whatsoever with Woodbine, no problem whatsoever traffic-wise or parking-wise; nobody could care less. On the other hand, you had Greenwood, very densely packed in the middle of the city and with very limited parking. It's not the fault of the Jockey Club. If we could give them demolition permits to knock down a few apartment buildings I'm quite sure they would take them. That is just not common sense.

Everything was fine. It was a gentleman's agreement that Woodbine would operate on Sundays but Greenwood would not, because of the particular local circumstances.

Then a new track comes in, and of course one of the parts of this industry is the logistics of it. You can't very well have two competing tracks operating within 30 or 40 miles of one another at the same time or it's self-defeating.

The whole trouble starts on the allocation of dates by your commission to the proposed new track outside of Hamilton. This is where

the pressure comes right down to open up Greenwood on Sunday, and I suggest to you that on the basis of your commission starting the difficulty, your commission has to resolve it. I don't think it has to be left up to the municipality.

I think that the only fair decision your commission can make is that it was a gentleman's agreement back a few years ago on this question and I think it should be preserved. There is no public response. There is no great agitation and petition to open up Greenwood on Sunday, even from people who live in my riding, pretty well adjacent as it is, as Mr. Renwick has pointed out.

I think it's time for an edict decision rather than going through the difficulties of a plebiscite.

**Mr. Haggerty:** Well put a motion for that, Frank, and we'll move on it.

**Mr. Renwick:** The other matter I wanted to raise very briefly is that I was called by the Globe and Mail, who were somewhat perturbed about the in camera hearings of the commission with respect to the matters dealt with at Windsor Raceway.

My language to the reporters from the Globe and Mail who spoke with me was to the effect that I would be very surprised if the Racing Commission were not adhering scrupulously to the minimum rules provisions of the Statutory Powers Procedure Act in protecting persons who were appearing in camera before that commission with respect to the investigation.

I would like some specific assurance that the commission in fact was scrupulously attending to the minimum rules to protect persons who were appearing before that commission.

Secondly, I would like the minister, in conjunction with the commission, to review carefully their thinking about the traditional view that such hearings should be held in camera. The reason I ask is that it is a traditional view, and it certainly did relate to the time at which racing was not under such effective control as now and there was a lot to be cleaned up.

Thirdly, if the ministry is going to continue the in camera hearings of the Racing Commission in such circumstances, I would like the ministry to consider that a special representative of the minister, if only with a watching brief, sit at the commission hearings for the purpose of ensuring that the rights of the persons who are appearing are specifically protected, and that they are specifically ad-



vised as to their rights and the maximum of protection accorded.

I am not a devotee of racing so I don't know all of the ins and outs of the reasoning and the thinking, but I would ask your comments about those three points.

**Hon. Mr. Clement:** The results of the recent hearings held in Windsor in March, I believe, of course have been published in the press. I might add that the only person who made any inquiry as to the possibility of the hearings being public was a reporter from the *Globe and Mail*.

We were concerned about this, and made certain inquiries at those hearings to ascertain from the people involved and their counsel if they would prefer that the matters be held publicly or in camera. I understand they were unanimous in wanting them held in camera.

There is an obligation on the Racing Commission, which is well aware of it because it has been drawn forcefully to its attention by its counsel, that section 9 of the Statutory Powers Procedure Act is mandatory. Firstly, the commission must address itself to the problem and make a finding before it even launches into the hearing.

The section says the hearing shall be open to the public unless, firstly, it involves matters of public security, which I suppose it doesn't, or—and this is the part—

Intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the tribunal may hold it in camera.

Now it has been the experience of the Racing Commission, so I am told, that should many of these matters be held in public, the whole process would just dry right up.

People connected with the racing industry, in particular, would have a real hesitation to come forward and disclose things they are going to find reflected on the front page of the nation's newspapers the very next day. They tell me this is peculiar to the racing fraternity, as opposed to the general public in those criminal matters that we are all familiar with.

I'd like Mr. McDonnell to comment on that, because I have never attended a hearing, but he has attended many of them.

**Mr. Renwick:** The point I make about rethinking that position is that I would expect that language very similar to that was the justification that would have been used for the Star Chamber continuing to hold its hearings in camera, or any "in" group—

**Hon. Mr. Clement:** You may be right, and we intend to discuss it with the chairman and the commission to get their feelings on it. Mr. McDonnell, have you any comments?

**Mr. Renwick:** If I could just make another comment. My understanding of the way in which the Law Society Act is drafted is that it is in such a way that they are in public unless specifically requested by a person attending who can justify the position that it is a matter of exposing personal financial matters.

In other words, the burden is somewhat different. There are variations which may or should be made if the cold light of an objective reappraisal of the thinking is put on it and the sensation is of an in-group always wanting to conduct its affairs totally in private, which perhaps needs a different light. I would be interested in hearing your comments.

**Hon. Mr. Clement:** Mr. McDonnell, have you any comments pertaining to this?

**Mr. W. R. McDonnell** (Supervisor of Administration, Ontario Racing Commission): At our inquiry, we had representatives from all organizations and had delegates present at those hearings, including Mr. Cooper from our ministry's office. Those delegates or appointees who attended these hearings were basically representatives of, I would say, approximately 16,000 people within the industry itself.

**Mr. V. M. Singer** (Downsview): May I say a word? I find myself in substantial agreement with what Mr. Renwick said on this point, and I don't think Mr. McDonnell's answer is meaningful at all. The 16,000 people who had representatives there are a large in-group.

The minister practised law very successfully for a number of years and undoubtedly found his way into the criminal courts on occasion on behalf of clients of his. I am sure he will agree with me, as any other lawyer will who goes before the criminal courts at all, that the concern of many of our clients is that undue publicity is going to be attracted by their trial in connection with an income tax matter or any other matter

that unfortunately brings them before the criminal court.

It has long been a principle of our justice that it must be carried on in public. Most times the public isn't at all interested, but occasionally there is a case that attracts attention; that's part of the system and that's what I think helps to keep the system honest.

I can conceive of some circumstances, perhaps, when a hearing of the Racing Commission or a portion of it, might be held in private, but I think that the approach they have been using is that most of their hearings should be held privately, and maybe sometimes a little bit publicly. This arouses suspicions. Justice must not only be done but it must appear to be done; and if it is done behind closed doors it's hard to know what the appearance really is.

I am not suggesting that these cases were handled badly or corruptly or fraudulently or that evidence was suppressed or that the people who deserved to be punished weren't punished. I am saying, really, that the public—not the 16,000 people Mr. McDonnell talks about—has no opportunity to view what the proceedings are.

I would concur with the idea put forward by Mr. Renwick that where this practice grows up, and it seems to be extant completely now in anything that the Racing Commission deals with, it's a bad practice. The thrust should be changed and the minister should indicate, in legislation if necessary but certainly without legislation first, that the opinion of the ministry has to be that these things, by and large, are in public. If they are going to be held in private, there must be good reasons, and the reasons should be set out.

We have had the same argument about boards of education sitting privately; and there's hardly a person here who has had any municipal experience who doesn't bridle at the thought. We have had the same problem with municipal councils sitting privately.

We conduct our affairs upstairs, as embarrassing as they may be to individuals or businesses or representatives, publicly, as we should. This committee is carried on publicly, and that seems to be what should be the rule.

I think the Racing Commission derogates from that rule and I think it is wrong. I think the minister has a responsibility, not only to discuss it but to undertake to do something about it, by legislation if necessary.

**Hon. Mr. Clement:** I find myself unable to quarrel with the views put forward by Mr. Renwick or yourself in this connection. It is of concern to us, and we intend to discuss it fairly soon with the commission to develop some policy. As you have pointed out, if the policy was not effective, then we would have to consider reflecting our attitude in legislation. I'm very sympathetic to this view.

**Mr. Renwick:** Could I have the assurance that those rules were scrupulously adhered to in the case of this hearing?

**Hon. Mr. Clement:** I understand they were. I want to make it clear that I was not there but my executive assistant was there. I had some discussion with members of the commission and they gave me that assurance. I've had no criticism, I might add, from people involved.

**Mr. Renwick:** Again, it is very difficult for them to complain.

**Hon. Mr. Clement:** I can see that.

**Mr. Singer:** Bearing in mind that it's natural for people who are accused of doing something wrong, even if they are going to be found guilty of doing something wrong, that they don't want publicity on that.

**Hon. Mr. Clement:** Even though one of the people involved had a lifetime suspension, there's been no complaint, for whatever value that might have in your own mind.

**Mr. Renwick:** The other aspect of it is that, if in the interval until there is some change or rethinking that there are to be other hearings, there should, in my view, be something like the Queen's Proctor present to assure from the point of view of the public that people are made aware, specifically, of their rights and that they have that kind of independent protection. I think it is a difficult question at all times, but I am delighted that the minister will take a look at it and make certain that it can be rethought, if it is at all possible to do so.

**Mr. Chairman:** Any further questions on item 1?

Item 1 agreed to.

Item 2, theatres.

**Mr. Deacon:** Yes, Mr. Chairman.

**Mr. Chairman:** Mr. Deacon.



**Mr. Renwick:** When are we going to see "Last Tango in Paris"?

**Mr. Deacon:** I want to inquire about the role of the Ontario Film Institute and if there is any possibility of combining the Film Institute with the theatres branch. There seems to be an overlapping to some extent between these two operations. One has to do with film testing. Is that right?

**Hon. Mr. Clement:** Yes.

**Mr. Deacon:** And the other is responsible for theatres?

**Hon. Mr. Clement:** Well, the licensing of theatres and the licensing of projectionists. The licensing of theatres involves safety, the public, and this sort of thing. Licensing of projectionists pertains only, as far as film is concerned, to 16 mm in size and up, and the censorship facet of the operation.

**Mr. Deacon:** Actually that type of work has nothing to do with the creative aspect of it; it's only the licensing aspect. It sounds to me as if the Ontario Film Institute should rather be more under the Ontario Arts Council or something of that nature.

**Hon. Mr. Clement:** I would think so, yes. There's no reason why not.

**Mr. Deacon:** That's all.

**Mr. Chairman:** Mr. Drea.

**Mr. Drea:** Mr. Chairman, I would like to discuss with the minister the censorship situation in this province. First off, I read a very interesting editorial in the Globe and Mail today, which says that "Last Tango in Paris" has been approved uncut by this jurisdiction. Is that correct?

**Hon. Mr. Clement:** That is my understanding, although in the back of my mind there's a lingering doubt that eight seconds was cut. Nothing was cut?

**Mr. O. J. Silverthorn** (Director, Theatres Branch): Nothing.

**Hon. Mr. Clement:** I don't know where I got that impression.

**Mr. Drea:** That report in the Globe and Mail is correct?

**Hon. Mr. Clement:** It would be correct, yes.

**Mr. Drea:** I see. I would take it then that this particular movie would have to be witnessed by our censors.

**Hon. Mr. Clement:** Oh, yes. They are all studied.

**Mr. Drea:** I would presume, of course, that it is marked acceptable for adults? Or what do we have here?

**Mr. Silverthorn:** For 18-year-olds and over.

**Mr. Drea:** For 18 years and over.

**Mr. Deacon:** Restricted.

**Mr. Drea:** Could you tell me offhand, is there any other jurisdiction in North America that has allowed this through uncut?

**Hon. Mr. Clement:** Oh, yes. Mr. Silverthorn?

**Mr. Silverthorn:** That has which?

**Mr. Drea:** Is there any other state or province which has so far made the decision to let this particular movie through uncut?

**Mr. Silverthorn:** In Quebec, it is playing there now uncut in two languages, English and French. British Columbia has passed it as is, Manitoba as is, and New Brunswick as is. In the United States, of course, there are no censorship boards or classification boards in operation, state-wise.

**Mr. Drea:** This is the same movie that has been shown abroad?

**Mr. Silverthorn:** It is the same one as shown in Paris and Italy, where all the discussion took place.

**Mr. Drea:** There is not a European and a North American version or anything like that?

**Mr. Silverthorn:** No, the same version.

**Mr. Drea:** Well, thank you for that. Now then, does the censor, or his staff look at every film before it gets approval in this province?

**Mr. Silverthorn:** Every film.

**Hon. Mr. Clement:** Every one.

**Mr. Drea:** Every film. Might I ask which censor saw a movie called "Mother's Helpers" which is advertised on page 69 of the Toronto Daily Star today. I'll read you the advertisement: "They came to make the beds . . . and remained! Mother's Helpers. Colour." The second film on that show is: "Don Dorsey's 'Lust for Hot Lips.' Cheri is an Expert in Everything. Kathy Knight. Colour." Did the censors see that?



**Mr. Silverthorn:** Three censors sit on every shift. We work in four shifts a day with three people at a time.

**Mr. Drea:** Do you recall seeing these?

**Mr. Silverthorn:** Oh, I didn't see those, no.

**Mr. Drea:** Do you recall who did?

**Mr. Silverthorn:** No, I could find out, though, of course. There would be three people who saw them.

**Mr. Drea:** Would you know, by any chance, if these films were cut, edited or changed in any way?

**Mr. Silverthorn:** They could have been, yes.

**Mr. Drea:** What I'm getting at—and I'm going to read a couple of more examples, Mr. Minister—is that either we have censorship—and I don't want to get into the philosophical thing on censorship—

**Mr. Deacon:** I thought we were doing classification.

**Mr. Drea:** Classification—it's the same thing. Either we are going to have censorship or we are not going to have it.

**Mr. J. Duksza (Parkdale):** Let's get into it.

**Mr. Drea:** All right. You may want to get into it, but the point I'm raising is that if these go through a classification body, and presumably they are not obscene, do we not get into the other problem of the advertisement being written in such a way that the film does appear to be obscene?

**Hon. Mr. Clement:** Yes, under the Theatres Act, the board has jurisdiction to monitor the advertisements. If you look at the report of the chairman, which was made available to the public about two weeks ago, it gives the particulars of about 14,000 advertisements that were examined by the board and 200 or 300 that were—

**Mr. Lawlor:** The figure is 230.

**Hon. Mr. Clement:** Those 230 were ordered to be amended or changed in some way.

**Mr. Lawlor:** No, they were not approved.

**Hon. Mr. Clement:** They were not approved?

**Mr. Lawlor:** The report says: "Approval was given to 184, which had been treated to our satisfaction."

**Mr. Drea:** Treated! What does "treated" mean?

**Hon. Mr. Clement:** Presumably amended.

**Mr. Drea:** I had no idea that we had control over the advertising. That's very interesting.

Well, I wonder if we could come to another movie that's showing. I want to know if the censors saw and classified it. This one is called "Fun and Games." There's not terribly much dialogue in the ad. It just says: "Swinging couple seeking broadminded men, women and couples for 'Fun and Games.' Call 925-6400 for starting time."

**Mr. Haggerty:** Back at the races, are we?

**Mr. Drea:** I'll table the ad, but I want it back in a moment. Let me go through a couple of others here. How about "Sex Non-stop"—these are short films—"Valerie," "Cherry Hardy and Raquel," "Lady Godiva Rides," "Caroline Cherie" and "Sexy Susan Sins Again." Are these all classified by the government?

**Hon. Mr. Clement:** Well, there are films—

**Mr. Drea:** No, these aren't in that. They're not videotaped; I'm staying away from that.

**Hon. Mr. Clement:** Okay, all right.

**Mr. Drea:** I wonder if the censor would take a look at that ad on "Fun and Games" and tell me if that one was approved or does it have to be treated?

**Hon. Mr. Clement:** It seems to be a pretty good movie.

**Mr. Haggerty:** The minister says, "I'm all for sin."

**Hon. Mr. Clement:** I didn't say that.

**Mr. Chairman:** Let the record show that the minister did not say that.

**Mr. Silverthorn:** That has been approved, I would say.

**Mr. Drea:** That ad has been approved?

**Mr. Silverthorn:** Yes, or it wouldn't be in the paper. It has to be approved.

**Mr. Drea:** If that has been approved, Mr. Minister, for once in my life I'm speechless—I really am.

**Mr. Chairman:** Are there any further questions?

**Mr. Drea:** Oh, I'm just temporarily stunned—

**An hon. member:** He's waiting for the shocker.

**Mr. Drea:** I'm absolutely flabbergasted.

**Mr. Silverthorn:** I don't know on what ground you could disapprove of it.

**Hon. Mr. Clement:** Perhaps the members of the committee would like to look at the ads we've referred to. It seems to be a scantily dressed—I presume that's a female?

**Mr. Drea:** Well, she's got a garter on. I presume it's a female.

**Hon. Mr. Clement:** It looks like she has got on some kind of undergarment and stockings and shoes. Seems to be a notable absence of jewellery.

**Mr. Deacon:** Hasn't this been going on for a long time?

**Mr. Drea:** That is what I want to say. Do we really need a classification board if it is still going on? That's the point I'm raising. I think it's a very valid point.

**Mr. Deacon:** You mean, do we require a censor at all if we have a classification of the ads? Is that what you are concerned about? Having both?

**Mr. Drea:** Yes, both.

**Mr. Deacon:** Maybe the ad needs to be differently treated than the other, because the people can choose whether they are going—

**Hon. Mr. Clement:** The one down there depicting a couple on the left-hand side.

**Mr. Renwick:** I see. I agree with Mr. Silverthorn.

**Mr. Duksza:** Which is the one that Mr. Drea advised us to see? I am not clear.

**Mr. Drea:** I didn't advise you to see anything.

**Mr. Chairman:** Do you have further comment?

**Mr. Drea:** No, I'm waiting for them to finish. Do you want me to continue?

**Mr. Chairman:** Would you please?

**Mr. Drea:** All right. Fine, Mr. Chairman. Mr. Minister, the point that I am raising is that I am perfectly prepared to accept,

in the area of entertainment—whether it's the cinema or whether it's the stage or what have you—that, regardless of the personal opinions of some of us, people do have the right to choose, they have the right to choose right up to the moment that they put their money through the turnstile. It was my understanding that the original Ontario Board of Censors, and latterly moving into classifications, was a response to the public to give them general guidance on the type of film, because they were perhaps not aware of the content of all of the films and did not, while exercising the right to choose, want to go in unprepared.

At the same point, though, we get into the entertainment columns of the newspapers and the advertisements, and there I suggest to you that the person no longer is free to choose. I notice, by the way—and I'll just digress for a moment—in both the Sun, where I took that from, and the Star, that the skin movies are segregated in one spot. So presumably even the newspapers are getting a little bit concerned. The regular type of film, whether it is adult or restricted, the film that is worth seeing, seems to be put in other areas. These seem to be segregated in one particular area, so perhaps they are engaging in a little bit of segregation by themselves as a matter of good taste. But what concerns me is that these things jump out at you and they hit you in the face.

Mr. Minister, I am no prude. Perhaps I am a little more sensitive in this area because I understand some of the nuances in these particular forms of advertising, but I suggest to you it is becoming an area of controversy in households as to the quality of the entertainment ad. I think people have given up long ago hoping for the day when—oh, I suppose the skin flick, it's obviously not pornography or the police would stop it—this type of thing is going to go away. I think people accept that it caters to a particular audience and that's the way life is.

But what I come back to is that with a classification system, these things are apparently seen by professionals and experienced people on a board of censors, and now I find out that even the advertisements are viewed by these people, and I'm beginning to wonder if, indeed, we really need this at all; if that type of ad can appear and it's considered to be the type of thing that honestly depicts what goes on in the film.

I think this one has been doctored a little bit, quite frankly, Mr. Silverthorn. Having been in the trade a little while, I rather suspect some of the garments on this woman



are spray-painted on. It may have been touched up.

It seems to me if you are going to have a classification system you have to have a classification system that says, "family," "general," "whatever" and it's there. If you are going to have a classification system that views the entire film and merely says "That's the way it goes in these times; it is suitable," I fail to see why we need to spend the funds at all.

**Hon. Mr. Clement:** I'm concerned about it. We've had some discussions concerning this thing. One philosophy is why should government or any board tell you what you can or cannot see? On the other hand there are the people who say that this is a function of government and we ought not to make these things available to the people.

There has been a study completed, as ordered by a predecessor of mine who had the responsibility for the Theatres Act in another ministry. That study made certain recommendations and the recommendations were basically, as I recollect them, that you merely classify and there be no deleting of any portions of any film. It would be classified, period. It recommended you go a step further and enact legislation or, if you classify them, you have four grades, I think. I forget the grades but we will say one, two and three or "general," "family," the Walt Disney type which is (a) or one we'll call it, with class two a little more progressive. It recommended four categories, the fourth being probably the pornographic or obscene film.

If the classification is made for one, two, three or four, along with that classification goes an immunity to the theatre owner for classes one, two and three. He takes his chances on No. 4, in order for the police to monitor those. The report pointed out some examples in other jurisdictions, other provinces, where a theatre board or a censorship board has actually given approval to the showing of a film but another branch of government, in the person of the Attorney General's office, has come in and prosecuted and there has been a conviction.

The board finds itself between these two poles of attitude constantly. I'm sure that if the pictures being submitted to the board today had been submitted perhaps five or 10 years ago, the board would have notified the police immediately to come in and view them and make the necessary arrests. Attitudes have changed.

One thing I feel personally very strongly about is that what goes on in the theatre

should only be made known to the public through some kind of descriptive literature or poster in the front, and that the members of the public who don't want to be exposed to that sort of thing do not have to go by the blaring loudspeakers, or see the pictures that are somewhat suggestive, including the trailers, as they call them, or the coming attractions at the movies.

Oddly enough in Denmark, where they pulled all stops out in 1967 or 1968, they've now had some second thoughts but only insofar as outside advertising is concerned. They've really clamped down on their porno shops and their theatres and this sort of thing so that the members of the public who are the captive audience, walking by on the street, are not subjected to this material. I kind of agree with that attitude. If you find a film advertised that you may find obscene or offensive to you and if you go in and see it and then complain, I haven't got much sympathy for you. But I don't see why, out on the street when people are walking by, particularly children, they have to be subjected to this.

**Mr. Deacon:** With a class 4 film, you know you are going to get the full treatment.

**Hon. Mr. Clement:** Oh, sure, if this is what you want to see, don't complain to me afterwards that you went to see a class 4 film and you were just sickened by it. Why did you go to see it?

**Mr. Drea:** Right!

**Hon. Mr. Clement:** I haven't any sympathy for that type of complaint.

**Mr. Drea:** But you do have for the general type of complaint, which is that this is thrust upon you?

**Hon. Mr. Clement:** Yes. I notice in the correspondence I have received over the past few months dealing with films, you will get geographical pockets, obviously conducting a campaign, writing in complaining about pornography, and they have difficulty in isolating where they saw it.

Perhaps I might make you smile if I tell you that one of our favourite letters came from Mississauga. A woman signed it and said that the previous Friday night she and her husband had seen a programme on channel 79. She said it was just sickening. She wrote: "I went to bed right away and he came in in a half an hour and he was just like a mad animal."



**Mr. Drea:** I have never been accused of that.

**Hon. Mr. Clement:** I can add to the story by expressing the regret of the secretary who zipped that letter open and who said she was sorry that her husband hadn't seen it.

You get this end of the axis complaining about what they see on television which, of course, has nothing to do with the Theatres Act, and you get the other end that says let them make the assessment themselves. They complain that there shouldn't be any censorship whatsoever. The censorship people, the employees of the board, find themselves in between. Up to recently there were two ladies and five males on that board. It is a very difficult thing for them to make an assessment. Some of the stuff that comes in is so patently bad that I don't care what the background is or whatever the credit might be, you just couldn't possibly justify it by any wild stretch of the imagination.

**Mr. Drea:** There are enough spooks in the world that they can get an audience.

**Hon. Mr. Clement:** These people come in to the board under the guise of saying this is an educational thing and that it is for the betterment of mankind. By any stretch of the imagination, there is just no way that you could allow even a film clip, or just one frame.

**Mr. Haggerty:** How are the sexes balanced that sit on the censorship board? How many male and how many female?

**Hon. Mr. Clement:** There were five male and two female. Mrs. Dunlop just retired, I believe, about April 1, Mr. Silverthorn.

**Mr. Silverthorn:** May 1.

**Hon. Mr. Clement:** There is one lady remaining on the board. There is a vacancy right now.

**Mr. Deacon:** Shouldn't you try to make the composition in proportion to the viewing audience?

**Hon. Mr. Clement:** The lady who is on the board right now is about 27 years of age. There are some younger people in that age bracket and some older people.

**Mr. Deacon:** I would think it would be a good idea to have more of a balance in relation to what you know about theatre audiences. There would certainly be a majority of women viewers I would think.

**Hon. Mr. Clement:** Oddly enough, Mr. Silverthorn and other members of the board in their spare time often attend movies to see what the reaction is.

**Mr. Deacon:** Yes, but I doubt if they make up a number sufficient to be of equal representation.

**Hon. Mr. Clement:** You have some figures there I think, Mr. Silverthorn, which the committee might be interested in.

**Mr. Silverthorn:** About the age group of people attending?

**Hon. Mr. Clement:** Yes.

**Mr. Silverthorn:** Teenagers are the most frequent moviegoers. The age group, 12 to 29, accounts for 73 per cent of total theatre admissions. Two-thirds of those with at least some college education are moviegoers. So it is a young person's entertainment, for those between 12 and 29.

**Hon. Mr. Clement:** About 70 odd per cent.

**Mr. Silverthorn:** Yes, 73 per cent.

**Mr. Chairman:** Mr. Drea.

**Mr. Drea:** I wonder if I might come back to one last illuminating ad and then mention just one little thing about drive-ins. It doesn't say in the ad here what type of theatre this is, and I realize the difference between a videotape production which is outside of your jurisdiction. Does this Sodom Sinema at 544 Yonge St. use conventional film?

**Hon. Mr. Clement:** I think it's 8 mm film.

**Mr. Silverthorn:** It's not licensed by us.

**Hon. Mr. Clement:** It is not licensed by us.

**Mr. Drea:** I see. It says here, "Totally uncensored seduction films." I guess they are completely outside the Act.

**Mr. Silverthorn:** The Toronto morality squad looks after that.

**Mr. Drea:** I see, but they are outside of our Act.

**Hon. Mr. Clement:** Yes.

**Mr. Drea:** Could I come to something that does involve the classification system?

**Mr. Silverthorn:** dealing with the problem of parents, particularly younger parents, who take a child in a car to a drive-in, have the drive-in operators and your branch got together to determine at what point the child

ceases to be considered going to sleep so that the restrictions on the particular film do not apply?

Every so often there are complaints from young couples who, for obvious reasons, take their children in the back seat of their car to a drive-in. If two of the children are obviously infants, there is no problem there. But if one of the children is around six, seven or eight, the proprietor gets somewhat upset as to whether he is breaking the law by allowing that particular child in to what is a restricted movie.

Of course, the parents are very upset because the decision is made when they are in the line-up to get in and there are cars behind them honking, and their whole evening's entertainment is ruined by the presence of a six- or seven-year-old child who is going to sleep anyway and has no particular interest in the movie whatsoever.

Without getting into a very complicated and complex thing, I just wonder if this question cannot be resolved between your branch and the movie proprietor by leaving it to an element of discretion and some common sense, because this is indeed a hard-ship upon—

**Mr. Deacon:** Why isn't it the parents' responsibility?

**Mr. Drea:** Well, all right. I am just saying what happens when you get to the drive-in. It may be an adult movie—

**Mr. Deacon:** Or it might be a restricted one; it might be one of these.

**Mr. Drea:** Yes, but the kid is going to sleep anyway, even if he happens to be over the magic age of five or six. I just wonder if there couldn't be some discretion allowed here. If the parents are coming in a car as a family unit, and the kids are really there to play on the swings before the movie comes on and they are going to sleep anyway, there shouldn't be such meticulous attention paid to the age question.

**Mr. Silverthorn:** Well, some four of five years ago we had meetings with the drive-in people, and we came to the conclusion that babes in arms would be permitted without question. I think we exempted them up to about five years of age, provided they keep the children in the car. They didn't want them running around the concession stand at that age and in the darkness. This has worked out, and it is still a matter for management. I don't think they have been refusing admis-

sions for the last three or four years; I haven't heard any more about it.

**Mr. Drea:** Oh, they do from time to time.

**Mr. Silverthorn:** Well, maybe, but we have a kind of gentlemen's agreement to ignore the small babies—the sleeping children, as you say.

**Mr. Drea:** If they decide to exercise their discretion, it is not because we are forcing them to, is it?

**Mr. Silverthorn:** No, no we are not.

**Mr. Drea:** Fine, thank you very much.

**Mr. Chairman:** Further questions on item 2? **Mr. Lawlor.**

**Mr. Lawlor:** Well, Mr. Chairman, I want to say a word here about what I consider the only thing important, namely the philosophy of the attitude toward censorship that people may or may not adopt.

Back in the days when I was free to be intelligent, long before I was ensconced in this position, I used to read the writings of Oswald Spengler, whose leading book in 1926 was called "The Decline of the West."

It seems to me that there is a profound disintegration taking place in morals, in the widest sense of the word—not just sexual morals—in terms of honesty, integrity and personal worth and in terms of not trading what you believe in in return for any particular type of bribe whatever section it comes from, not necessarily in terms of money but in terms of accommodation to other people or in terms of a hundred other things. This sense of heroism in civil life is gradually being lost, and the people who seek to retain it are often held up as laughing-stocks.

In any event, Mr. Spengler of course had his own peculiar forms of corruption in the ways of power. He was adopted by Adolf Hitler; and although he personally repudiated Hitler, he found a good deal in common with him. In that book he traces the history of about 26 civilizations, what happened internally to those civilizations and the profound forms of decadence that arose from those civilizations.

One of the symbolic forms, the most external and the one that everyone latches on to, is sexual depiction in its more overt form in one way or another. I use the sexual gambits and play and the libertinism as a symbolic thing of the status of the whole culture, and judge that it is not Mr. Silverthorn's fault that it is ongoing. He shows us, perhaps



for a little older man, a great adaptability. For one who is over 35 years I give him enormous credit, for people as they grow older do not usually become more flexible, more capable of adapting themselves to the mores—which is his job—of the people around them, on the social whole, however lamentable they may personally feel those mores to be, and however, objectively speaking, weakening of the fibre of the country it does happen to be.

If you don't think these things have enormous impact you are wrong. I always smile at Dr. Shulman and others who take the extreme stance with respect to censorship. If they don't think that certain types of writings and certain depictions of things have any remote effect upon moving the soul, then dammit, how do they think contrariwise that it is worthwhile to spend any time reading stuff that is valuable, stuff which has a profound grasp of human meaning and human beings' relationship to one another when we learn what it is all about? So if it works one way, it seems to me it certainly must have some impact on the other.

Nevertheless, I am against censorship by external authorities, because while you may regret that, I don't think you can impose these things externally although we have a legitimate function now no matter what happens with respect to age groups. That must always, of course, be borne in mind. The younger people are avid to go. My children approach me constantly to go to the widest range of movies and think that their fundamental liberty is being somehow impinged upon in the process.

But there is a distinction between liberty and licence. It seems to me that in terms of artistic endeavour anything, just anything, can be depicted. It depends upon two things. If you are a writer and you are writing novels or fiction and you want to depict lesbianism or copulation in all of its manifold forms, that is quite up to you. It depends upon the purity of the source, your motivation for doing it, and secondly upon the height at which you look over the scene and survey the matter.

Most people would laugh at me for mentioning purity of source. I shall laugh back and we will see what happens as the generations go on and as we fall into decay and into desuetude. So keeping those two things in mind, that is precisely what the writer has to do. Some examples become so grotesque, as the minister himself said, so overt, that the purity of sources is obviously not there, and there is not any height.

As a matter of fact, the producers, or the writers or whoever is involved, connive with their subject. They don't judge their subject, which is the responsible job of a responsible artist, but they are beneath their subject and they are catering, I think, not so much to the money motif in this particular thing. They are at the opposite end of the power spectrum. They are seeking personal titillation because of what are called in mental hospitals, warped sensibilities of one kind or another. Such things do exist, otherwise we would not have people so profoundly in anguish largely on a sexual basis, à la Freud, in the personal and mental lives.

I usually use this period of time—and I am not going to do it this year because I think there should be some foreshortening of these estimates—making a general review of all the movies that I have seen. Take a look at Hamsard of previous years; I have had fun doing this, you know, a personal critique. One always feels that you are somehow a critic manqué, and that you would probably be a darned sight better off out there writing movie reviews or something like that, influencing the common weal in a really distinctive way. And besides, I am nuts about movies.

I think they are probably most immediately impactful in shaping of human lives. You learn more from a good movie, and it is a good movie because you learn more, than from any other medium these days. And since we haven't much time at our disposal, two solid hours spent in that particular way, watching "Lovers and Other Strangers" or any wide range of films, is time well spent. Most movies are extremely psychologically oriented—they are probing and they are after the links—and it is one of the best exercises for the mind. I cannot understand people who say they don't go or they don't like them when they do.

Take one movie that technically was fine but I would think artistically was bad with respect to the interleaving of episodes and the working out. It is a movie that made enormous impact on me and anybody I've spoken to. It's called "Deliverance." You will remember the rather horrible story sequence and what came out of it. At the end of it, if you can walk out and say you don't really know what it means and what deliverance was there—I thought the title was highly ironic. Were there any cuts made in that movie at all?

Mr. Silverthorn: No, sir.



**Hon. Mr. Clement:** I didn't see the movie but I read the book some three years ago. It was a very exciting book in a horrible way, in my estimation. It was the sort of book you couldn't put down. You wondered how these people were going to get out of this canyon; they became very basic and animalistic in many parts.

**Mr. Lawlor:** Yes, extremely so, but at the same time not in a really offensive way. I mean this is what we are objecting to.

**Hon. Mr. Clement:** I didn't find the book offensive. I found it a very exciting book to read.

**Mr. Lawlor:** With the movie, I tell you, whatever one tried to get out of it, one couldn't because the thing was making a judgement of fundamental human values. This is part of life and this could happen. What they drew out of it in terms of the one main character's relations with his wife and family after that, wasn't Tolstoy but it was, you know, more than acceptable as most current things go.

I noticed that the Canadian film industry is perhaps not the most profound or beneficial producer of movies. I looked down through the titles you have given us in your recent report and my heart swells with pride at the Canadian film industry, particularly with the fine work it did in a movie called "Fanny Hill meets Lady Chatterley." I wonder what the two girls had to say to one another.

**Mr. Drea:** It also got a government subsidy.

**Mr. Lawlor:** As you run through the rest of the list, the titles are supposed to be seductive or somehow ingratiating but they aren't, including the French films down here. I remember one time when the member for High Park and I wanted to see a movie. Here's where the subjective element comes into this thing. Although they say that taste is in the eye of the beholder—*de gustibus non disputandum est*—you can't argue about taste. I think it's one of the few things worth arguing about because tastes have to be formed and standards have to be set. As I say, the member and I went to see—

Interjection by an hon. member.

**Mr. Lawlor:** These apothegms may be made and buried in the tomes of Hansard.

We went to see "Tetticut Follies." Now "Tetticut Follies" was a film that was banned by the censorship board at that time. We had

a private showing and I felt it was a total mistake to ban it. I doubt today whether it would be banned over against "I am Curious, Yellow" or orange or lemon or whatever it is that you are curious about in this world.

"Curious, Yellow" certainly was a shattering film from the point of view of breaking certain what had been considered acceptable moral norms in this community at least.

Again, I think it ought to have been shown just as "Tetticut Follies" should have been. It was about a mental hospital in which naked men were shown and what about it? It wasn't about naked men or about their nakedness. It wasn't concentrated upon that. It concentrated upon people who were really wracked and anguished. I believe it was about conditions in a Massachusetts mental hospital. It was a fine depiction; they took nothing away from it. It may have added a bit of spice, I don't know. I found, from that point of view, no, on the contrary.

Sex, if it is depicted luridly enough has two effects; either it's fairly akin to disgust on the one side, but on the other side, it can be hilariously funny, just like that blue movie which I happened to see the other night. My daughter told me about it and wanted to stay up but I wouldn't let her but I thought I'd better take a look at it myself.

It was very funny. I mean, you go on for a sequence of 20 minutes with all kinds of static staccato copulation? The husband must have been in a state of death or held in chains for too long a period of time to have held that particular—Take a look at channel 79; they show them all the time, I am told, and I think they are outside your purview or jurisdiction in that regard.

**Hon. Mr. Clement:** That is right.

**Mr. Lawlor:** Just to wind up what I have to say, you have permitted members of the press and others on occasion—there was a marvellous article by David Lewis Stein, who said something about how he dozed off—to see the parts of the movies that you see in the first instance. That is, somebody looks at all the parts that are cut out to review them. He watches nothing else; he concentrates specifically upon these portions. Mr. Silverthorn, this is perhaps a commentary on censorship—I wonder how, after all these years, you have been able to maintain your moral integrity—or have you?

**Mr. Silverthorn:** I haven't.

**Mr. Lawlor:** You haven't.

**Hon. Mr. Clement:** We have made him that way.

**Mr. Lawlor:** Have you had any showings for select groups of the public in this last fiscal year?

**Mr. Silverthorn:** No, sir, none.

**Mr. Lawlor:** You are not inviting outsiders in. That is all I want to say.

**Mr. Chairman:** Mr. Renwick.

**Mr. Renwick:** I just thought I'd like to say to Mr. Silverthorn, as we may not see him again, that I am rather ambivalent about this as a member in opposition. He has kept the party in power out of trouble for so long in this field that perhaps in that sense his successor will cause the government more anguish.

But apart from that, I think the committee should not disband without expressing its appreciation for the long service Mr. Silverthorn has provided. As I understand it, he is the last surviving appointee of the Hepburn regime in this province.

**Mr. Silverthorn:** Probably so.

**Hon. Mr. Clement:** He has been with the board, as you probably know, about 39 years.

**Mr. Renwick:** As I say, I think he should go into his retirement with the heartfelt best wishes from this committee and the previous committees that have been formed by many members of the Legislature.

**Mr. Chairman:** Let the record show the extension of congratulations, best wishes and thanks to Mr. Silverthorn.

**Hon. Mr. Clement:** Thank you, Mr. Renwick. I am sure that Mr. Silverthorn is very appreciative of those comments. His job and the board's task is not that easy, as you can well appreciate.

**Mr. Chairman:** Further questions on item 2?

Item 2 agreed to.

Item 3?

**Mr. Lawlor:** I have something on item 3.

**Mr. Chairman:** Have you? Then the committee will stand adjourned until 3 o'clock, Tuesday next.

The committee adjourned at 1 o'clock, p.m.

## CONTENTS

Friday, May 18, 1973

Public entertainment standards programme, continued .....	S-519
Adjournment .....	S-539







# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of Consumer and  
Commercial Relations**

**Chairman: Mr. J. A. Taylor**

**OFFICIAL REPORT — DAILY EDITION**  
**Third Session of the Twenty-Ninth Legislature**

**Tuesday, May 22, 1973**  
**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**  
**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER**  
**PARLIAMENT BUILDINGS, TORONTO**  
**1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 22, 1973

The committee met at 3:15 o'clock, p.m., in committee room No. 1; Mr. J. A. Taylor in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

On vote 1304:

**Mr. Chairman:** Mr. Lawlor, I believe you had something to say on this item on lotteries.

**Mr. D. M. Deacon (York Centre):** Mr. Chairman, before we get to that, the minister was going to clarify a point referred to by the public accounts committee. I think it had to do with corporations that are incorporated and the revenue collected on that. Isn't that the point that Mr. Breithaupt asked us to bring before the minister for clarification?

**Mr. Chairman:** I believe Mrs. Campbell raised the item on that. There was one on lotteries which we left, of course, for this discussion—

**Mr. Deacon:** Yes, it's coming up now; but I thought before we got into the lotteries, we could clarify that.

**Mr. Chairman:** And I believe the other was related to the annual returns, was it not?

**Mr. Deacon:** Of companies, yes! And the legal position of companies with regard to that.

**Hon. J. T. Clement (Minister of Consumer and Commercial Relations):** Well, what was the question? I'm not familiar with the question.

**Mr. Chairman:** The question that came up, Mr. Minister, was whether fees which would normally be paid, or which were accruing due or which had accrued due on the filing of annual returns, were actually collectible accounts? In other words, were the fees due prior to the filing of the return? I believe the legislation reads that they become due on the filing of the return. Therefore, do you look at

this item as an outstanding item for collection when filing of a return is overdue?

**Mr. Deacon:** Mrs. Campbell was pointing out there was an expense in connection with sending out the forms, and yet we were getting no revenue unless the forms were sent back and the renewal applied for.

**Mr. J. K. Young (Deputy Minister):** Was Mr. Salter (Executive Director, Companies Division) there?

**Mr. Deacon:** Mr. Salter was present, but couldn't clarify things as to the legality.

**Mr. Chairman:** Well, he seemed to indicate that it was not an item which was collectable prior to the filing of the return in accordance with the legislation, but what prompted and assisted the collection was the fact of cancellation of the charter for non filing. The notices that went out seemed to accomplish the correct results.

Now, one of the members mentioned there may be other companies which just didn't seem to care; and of course their charters were cancelled. But I think we were concerned about the companies that probably were legitimate companies and operating companies which were concerned and the notice of intention to cancel after two years of default, certainly enticed them to complete their returns and to file the fees. That was certainly one matter that was brought up.

**Mr. Deacon:** Yes. The other matter that was brought up was the question of covering the salaries and overhead, in effect, of those who went to inspect properties in connection with offerings of real estate in foreign countries. It was pointed out that the policy of the ministry was to collect the actual out-of-pocket and travel expenses. But we were concerned that the public generally was bearing the cost of the people's time and that there should be, in addition to the normal out-of-pocket travel provision now being made, a set amount set aside for the actual time and salaries and overhead of the individual going.

If it's a trip to Buffalo, just across the border, it's a very short period of time and



quite easy for the person concerned to do the job, to look into the registry office and check clear title and be sure that the prospectus was giving a full, true and plain disclosure. But for a property in Spain or some other country, there would be a great deal of difficulty.

We felt that since the Act already provides for the total costs—which would appear by the wording of the Act to include the salaries—it should be the policy of the minister to charge that in addition to normal travel expense.

**Mr. Chairman:** Mr. Minister, Mr. Deacon is speaking of section 53 of the Real Estate and Business Brokers Act; and subsection 2 of section 53 states the reasonable and proper costs of such enquiries or such reports shall be borne by the person on whose behalf the prospectus was filed.

Now the point that Mr. Deacon is making is: Should not all costs incurred by members of the ministry be paid by the applicant real estate company, which is promoting or developing the foreign lands for sale within Ontario? And subsection 2 is broad enough to include salaries, as well as travelling and other expenses. The question is whether, in fact, salaries are covered or collected from the promoter pursuant to subsection 2 of section 53.

Does that put the point clearly, Mr. Deacon?

**Hon. Mr. Clement:** Well, Mr. Chairman, and Mr. Deacon in particular, it is my understanding—and I'll have it borne out or clarified by Mr. Cox, our registrar, who is here with us today—that the salaries of the person or persons involved in making those trips is contemplated at the time the filing fees are paid and are in fact included in the filing fees. Mr. Cox, did I express that adequately, or would you enlarge on it if I have not?

**Mr. J. P. Cox** (Real Estate and Business Brokers, Business Practices Division): We have a filing fee, Mr. Minister. When someone files a subdivision outside of Ontario with us, the filing fee is \$300 where the filing does not exceed 50 lots. For each additional 50 lots we charge them another \$50, up to a total of \$700. That is for the initial filing. And then we charge them an annual renewal fee of \$200.

Now that, in 1972, brought in an income of \$28,100, which slightly more than covered the salaries of the two foreign lands people. When we add in the salary of their secretary, it's about \$3,000 short; but that secretary

takes her turn answering telephones, mimeographing, assisting other people who are short of stenographic help. So, if we charge 75 per cent of her salary to foreign lands, the salary of the three people concerned is covered.

**Mr. Chairman:** I think the question is, Mr. Cox, whether you do receive or require from persons filing prospectuses to sell foreign lands in Ontario, moneys in addition to normal filing fees?

**Mr. Cox:** We charge the cost of the expenses of the investigation of that property.

**Mr. Chairman:** Now, do you send investigators, for example, to the Costa del Sol in Spain?

**Mr. Cox:** Yes.

**Mr. Chairman:** Now, do you collect from the developer or the promoter the full costs of the investigator, including his salary for the time that he is investigating that particular site?

**Mr. Cox:** No, the salary is not included in the actual expenses of the inspection trip.

**Mr. Chairman:** Just his travel and—

**Mr. Cox:** Travel and living cost while he is there.

**Mr. Deacon:** Mr. Chairman, I think the reason we wanted to have this clarified is that we felt that normally when a lawyer puts in a bill it's not just for his cost, it's for his costs plus overhead—his salary plus overhead. In almost any other service you have an overhead related to it.

In addition to that, there is a lot more time required to go to Spain and do an investigation there and check titles, than there is to go across the border into the United States, or even any other point outside Ontario's borders. There is a difference in time required. Therefore, we felt that in interpreting that section of the Act you referred to you should, in addition to normal filing fees, have an amount indicating the actual cost of the person's salary and the overhead related to that person for the number of days he works on it. In that way you would be proportioning more equitably the burden of costs as between those whose properties are close at hand and on which the inspection can be readily carried out, and those who wish to get approval of a development much farther afield.

**Mr. Chairman:** Well, Mr. Deacon, we now have the information so it will be up to the public accounts committee to make the recommendation about it.

**Hon. Mr. Clement:** It is my understanding, Mr. Deacon, that when the foreign control officers do go to Torremolinos or Costa del Sol they are only gone for four or five days. It isn't a matter of their being there three or four weeks. And I understand the rationale behind it was that the original amount of filing fees, as described by the registrar, was set some time ago on the basis of attempting to recover the cost of the salary of the individual making the trip.

**Mr. Deacon:** I would think even though the salaries of the two personnel and their secretaries are in the order of \$31,000 or \$32,000 that there would be other costs in addition to that which the public purse is carrying. It is for that reason that I think it would be wise for us to investigate other methods of recovery in the situation which would be equitable forms of recovery.

**Hon. Mr. Clement:** We'll take a look at it.

Another thing, I would just like to make this point: There isn't a great deal of difference as far as traveling is concerned in going to Spain from here or going to Arizona. In terms of time it takes four or five days either way to either destination.

**Mr. Deacon:** Of course, it's the investigation and the difficulty of getting the information that I am talking about—the time it takes to get the same data checked out.

**Mr. Chairman:** Well, the public accounts committee will make its recommendation I am sure. In the meantime, can we get back to item 3, lotteries. Mr. Lawlor.

**Mr. P. D. Lawlor (Lakeshore):** It takes a good deal longer if they go to the isles of Greece; check the itineraries. It's just a wry remark. They do spend a good deal of time!

**Mr. F. Drea (Scarborough Centre):** It would be more interesting if they went to Scarborough instead of Greece.

**Mr. Lawlor:** That would be—

**Mr. Chairman:** Do you have further comments on lotteries, Mr. Lawlor?

**Mr. Lawlor:** Further? We haven't even—

**Mr. Drea:** Even started!

**Mr. Chairman:** I thought we might get around to it.

**Mr. Drea:** Well, that really adds to it.

**Mr. Lawlor:** I have just a few questions on lotteries this year. I have a consumer information guide from a year or two ago. Now it talks about 30,000 lotteries being authorized in 1970 with prizes of \$20 million. What is the situation today, or over the last fiscal year?

**Hon. Mr. Clement:** The 1970 statistics are incorrect. It's 23,439; 1971, 45,231; and in 1972, 47,194. There is a breakdown of those figures between the licences issued by the municipality, because of the amount of the prize involved, and the licences actually issued by the province—

**Mr. Lawlor:** I was going to come to that. For sums over \$35,000 how many of—

**Hon. Mr. Clement:** It's \$3,500 isn't it?

**Mr. Lawlor:** Oh, \$3,500, I'm sorry. How many are there of those?

**Hon. Mr. Clement:** Starting in the same order—do you want the comparative figures?

**Mr. Lawlor:** Well, yes.

**Hon. Mr. Clement:** All right, in 1970 there were 22,680 issued by the municipalities—

**Mr. Deacon:** Was it 22,000?

**Hon. Mr. Clement:** I'm sorry, 22,680—

**Mr. Deacon:** Right; thank you!

**Hon. Mr. Clement:** And 759 by the province. In 1971, there were 43,388 issued by the municipalities and 1,843 by the province. And in 1972 there were 44,674 issued by the municipalities and 2,520 by the province.

I should make this clear, those are lottery licences. In addition there are raffle lotteries and bazaar lotteries. Perhaps that's where you got the figure of 30,000 the first year.

**Mr. Deacon:** I thought we were up around 50,000 or 55,000—

**Hon. Mr. Clement:** Well, I am just giving you the lottery licences issued. Then there are raffle lotteries and bazaar lotteries. In other words there are three sections, three aspects.

For example, if you want the 1972 raffle lotteries: The municipalities issued 13,272 licences and the province issued 468. And with bazaar lotteries the municipalities issued



1,148 licences and 13 were issued by the province. So for 1972, if you took the three totals issued by both the municipalities and the province in lottery licences, you have 47,194 lottery licences. Raffle lotteries account for an additional 13,740, and bazaar lotteries another 1,161. So in round figures it looks like the total would be about 62,125.

**Mr. Lawlor:** The licence fee payable to the province was about two per cent of the total prize money involved. What revenue did the province derive?

**Hon. Mr. Clement:** Have you got the revenues there, Mr. Fisher?

**Mr. E. C. Fisher** (Director, Lotteries Branch): Yes I have. In 1972 we took in \$185,000 at the two per cent.

Now, we have an agreement with the municipalities in those cases where it is a provincial licence involved. At the end of the calendar year we remit one per cent, or 50 per cent of the two per cent if you wish, to the municipalities. Because it's the municipalities which in fact do the leg work and the checking for those licences that we issue. So we returned to the municipalities—well our return, in short, was somewhere around \$95,000.

**Mr. Lawlor:** Well then, what was the total amount going into the hands of the municipalities?

**Hon. Mr. Clement:** About \$95,000.

**Mr. Lawlor:** I beg your pardon?

**Hon. Mr. Clement:** About \$95,000.

**Mr. Lawlor:** That is the one per cent—the 50 per cent of the two per cent.

**Mr. Chairman:** No, that's—

**Mr. Lawlor:** But I am talking about the grand total.

**Hon. Mr. Clement:** That was wagered?

**Mr. Lawlor:** No, the grand total of the benefits to the municipalities. Have they no fee at all?

**Mr. Chairman:** Do they not get the full fee on those amounts under \$3,500 and only on those over \$3,500 do they split 50-50?

**Hon. Mr. Clement:** They get half the fee.

**Mr. Lawlor:** I would like the amount of the fee—the grand sum of the fee of the ones under \$3,500. Do you have records of those?

**Mr. Fisher:** We believe, if I can answer this for Mr. Lawlor, that the licensing fee of lotteries shouldn't be a burden on the municipalities. So the municipalities are allowed to set whatever fee they feel is necessary to offset the licensing and the control features, and supervision by their police. So it varies really, from a dollar a licence for those under \$50, to maybe \$10 up to \$3,500. Some of them, on the \$3,500 mark charge two per cent, which is \$70.

**Mr. Lawlor:** I see. There is no intention whatsoever under this legislation—I thought there was up to a point—to simply emancipate charitable organizations of various kinds, that fall under the cover of section 177, I believe, of the Criminal Code. You are not looking to this particular source as a source of moneys at all, for either the province or the municipalities up to a point, to a greater extent than what you are presently doing? Simply to legitimize the transactions, so the people won't be charged and to give some scope to the operation of lotteries and bazaars and what not, without gaining any lucrative benefit from it, sharing in the proceeds in some sense, seems to me to be a fairly fore-shortened point of view.

**Hon. Mr. Clement:** Do you think we should or shouldn't?

**Mr. Lawlor:** I think you should.

**Hon. Mr. Clement:** Well, I suppose you get into, as you say, the question of whether we should charge charities or not. In effect, if we deprive them of X dollars because of increased licensing fees then we are making those X dollars less available to the particular charity that's a beneficiary of the scheme.

**Mr. Lawlor:** You have written into the legislation, as I remember, a certain percentage—what is it, 10, 15; 10 per cent that can be used for administrative expenses? It's over and above what was previously being charged; and still is in certain types of charities, where 75 per cent goes into the pockets of the promoter and 25 per cent to the charity.

You have effectively reversed all that, within the demesne of these particular kinds of operations—the lottery operations. And that was enormously to the good. But surely some measure of sharing, five per cent sharing by the municipalities with the province in the grand total of lotteries involving millions of dollars would be neither here nor there so far as the charities are concerned.



**Hon. Mr. Clement:** Oh, boy! I mean I don't know. I have never explored that possibility. You raise a very good point, but I have not explored it.

I see all kinds of difficulties in the municipalities almost encouraging the conduct of lotteries in an effort to derive a greater income.

You take some of them! We had one of them up here at which Mr. Singer and I were up and drew some tickets, some two or three weeks ago, at Baycrest Village. This is a tremendous operation, financed, substantially, by a lottery. The grand prize, I believe, was \$25,000. Those people went out and worked their butts off selling nearly \$200,000 worth of tickets. I think they would be very dissatisfied in turning some \$10,000, at the rate of five per cent, over to that municipality.

**Mr. V. M. Singer (Downsview):** I think they would be, justifiably, very unhappy.

**Hon. Mr. Clement:** It was just amazing, with some people selling \$14,000 to \$15,000 worth of tickets. They worked for months on the darn thing, and at great personal sacrifice to themselves.

**Mr. Lawlor:** I would say there is a point of no return here, the diminishing marginal utility, as the economist would say, when you hit about 50,000 different forms of lotteries going on in the province at any particular time.

On the matter of encouragement as a deliberate measure to increase revenues, it seems to me that would be self-defeating in that particular context. Well, I'm not going to press that aspect of it.

You mention the matter of: "Counts being spot-checked and inspected when suspicious circumstances arise." Has there been any spot-checking with respect to the lotteries in the past year?

**Hon. Mr. Clement:** Mr. Fisher, will you answer that?

**Mr. Fisher:** Mr. Chairman, Mr. Minister; yes, we do! We spot-check them on a selective basis.

Bear in mind again, I am speaking now of those lotteries over \$3,500 total prize structure that are provincially licensed. The 30-day report we demand following the operation of any lottery is our key control factor, because it tells us the gross amount, the prize structure, the administration costs in detail; and of course the moneys going to

community betterment programmes. Now we take those, we look at them when the reports come in, and we pick out one here and there; and as I say, on a selective basis, we go out and go through the books to see they have in fact complied with the regulations.

**Mr. Lawlor:** How many of those have you conducted in the fiscal year?

**Mr. Fisher:** We do, on an average, three or four a week I would think. We just finished one yesterday down in Belleville. There is a fairly large one operating there. There was about \$700,000 in the lottery trust account, earmarked for something in the future; in this case a recreation complex which is to be built whenever they get sufficient money, I think \$1 million. We just wanted to make sure that, here again, in fact, the money would be in the trust account when the building was to be put up.

**Mr. Lawlor:** What was the grand total in prize moneys?

**Mr. Fisher:** It was \$43 million, for 62,000 licensed events.

**Mr. Lawlor:** Do you sometimes give, by way of ministerial designation, to organizations which cannot by any stretch of the imagination be considered charities, on a once only basis, the right or the power to carry on a lottery? Is that extensive? Could you give us any idea of how many times this was done in the last year?

**Mr. Fisher:** Not over six times in the past year. The designation, again, is those cases where—let's take, for example, a curling club, which isn't charitable in the usual sense. They decide to be charitable for the one shot affair only and raise money, through a lottery, to give, say to the United Appeal, which was the case in the last one. Then we grant them permission for that once only.

**Mr. Lawlor:** Is there any alteration with respect to the minister's position touching media lotteries; bingo lotteries by way of radio or even television, etc.? In a statement made as the legislation was being brought in: "Is Your Lottery Legal? Background Notes," you say: "Licences will not be issued at this time to operate any games for disposal of any cash, goods, wares or merchandise through the media of newspaper, radio or television or telephone for a consideration."

Is anything going on in the minister's head about that particularly?

**Hon. Mr. Clement:** Not particularly! Last year there were media lotteries conducted. I have them indicated here: Binges, fall fairs and exhibitions, and games of chance. There were 708 bingo lotteries, 890 fall fairs and exhibitions, and 67 games of chance.

**Mr. Lawlor:** But they were not media lotteries.

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** They were, were they?

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** All done by way of indoor games. That's all the questions I will ask for the moment.

**Mr. Chairman:** Any further questions?

**Mr. Deacon:** Yes.

**Mr. Chairman:** Mr. Deacon.

**Mr. Deacon:** Mr. Chairman, I notice the regulations say that the costs should be held to 20 per cent, but in fact the returns indicate these costs are more like 40 per cent.

**Mr. Lawlor:** I would like to see that.

**Mr. Deacon:** What is the future? I see that Lottario and others have become quite discouraged by the trend, by the competition. It is much tougher than they had thought. Does the minister have in mind heading for a provincially co-ordinated lottery system, as has been suggested by some?

**Hon. Mr. Clement:** Well it certainly has been suggested, and there have been articles written in the press along these lines. I think when we started the lotteries in 1970, when we were permitted to license lotteries under the Code, I think the novelty had a great sales appeal. While the total dollars wagered and prizes won and so on have generally increased—the total value of prizes in the last two years has just about doubled—I think the lotteries themselves are finding greater difficulty in attracting those consumable dollars that are available for that type of activity.

Correspondingly, the administrative costs have increased. The fixed costs in running any lottery are usually there, and whether you sell 1,000 tickets or 10,000 tickets really doesn't make much difference as far as the administrative costs are concerned.

We may be reaching the point, I don't know whether we have reached it, but we may be reaching the point where we are going to have to intervene, because the direc-

tor has indicated to me in various conversations that he is getting concerned about the escalating costs of administration expenses in relation to the prize money involved.

**Mr. Deacon:** I notice that Lottario quit, and it was 27 per cent, supposedly the lowest in the province in the way of administrative costs; and that the Province of Quebec seems to be doing quite well with its provincial lottery, with an administrative cost of around 25 per cent.

**Hon. Mr. Clement:** What is the lowest? I don't know the lowest. What is the lowest, Mr. Fisher, that you have seen in the last year; that is administrative costs related to sales?

**Mr. Fisher:** That is in the provincially licensed ones over \$3,500 dollars?

**Hon. Mr. Clement:** Yes.

**Mr. Fisher:** Some of them are running from 14 per cent and 15 per cent. In those where the prize structure is \$50,000, or it may be up to \$75,000, it is running about 25 per cent.

We are just completing an analysis of the statistics at the moment of 10 lotteries running at a \$100,000 prize structure. They are running around 40 per cent. This has given us some concern. You see, what is happening here is that there is more than a proliferation of the large lotteries and competing for the purchaser's dollar in the lottery field now takes enormous advertising campaigns. So what you are getting, of course, is greater and greater amounts of money spent for advertising, and this has upped the cost to somewhere around 40 per cent.

**Mr. Deacon:** What are the ones that are getting down to the 14 per cent or so you were talking about?

**Mr. Fisher:** We just named one, I think; Baycrest for example.

**Mr. Singer:** I would think that would be very low.

**Mr. Fisher:** That's right.

**Hon. Mr. Clement:** Yes, the lowest in the province.

**Mr. Fisher:** I think so; yes.

**Mr. Singer:** Lowest in the province?

**Mr. Fisher:** I think so.

You are getting two situations. You have the groups such as the service clubs with the ready-made sales force. Their members go



out and sell and turn all the moneys in to the community betterment programmes.

Then, of course, you get the other area, where you have the type of membership which gives financially, but does not necessarily sell tickets. That group has to go out and get agents and commercial outlets to sell on commission basis, and this up the cost.

**Mr. Deacon:** Now is this something: You say you are going to step in, does this mean you are going to really put teeth into this 20 per cent cost to drive out those who are running over that?

**Hon. Mr. Clement:** I am not saying at this point that we are going to step in, because I don't know that. I say we may have to step in.

When you put a top limit of 20 per cent, that can be dangerous. I think you are probably better to bracket it somewhere, because if you just say 20 per cent is it, what about the lottery that is a million dollar lottery and happens to run 20.5 per cent?

**Mr. Deacon:** Yes. What does bother me, though, is that there is a pattern you're now finding, that certain types of lotteries can run at the lowest category. Isn't it now time, maybe to change it so that those which are really commercial enterprises, you might say, with professional salesmen, ones of that size, are actually cut off?

**Hon. Mr. Clement:** Once we have this compilation of statistics, I think we'll know better where we're going. I should point out—it was mentioned to me just now—that there have been instances where Mr. Fisher has refused to issue a second licence to a group because the administrative costs were so high on the first undertaking or previous undertaking. He has refused to license the group next time around.

**Mr. Singer:** What safeguards do you have for the preservation of these trust funds? Mr. Fisher mentioned one in Belleville where there is some \$700,000 in a trust fund. I presume there are certain people who can sign at the bank and can control those funds, but supposing some of those people want to direct the funds to themselves?

**Hon. Mr. Clement:** The Charities Accounting Act prevails there, does it not?

**Mr. Fisher:** Yes, partly. Secondly, in the case of Belleville, and I think this would be applicable to any of the others, we have set up certain restrictions on the trust account with the bank manager. We had the bank

manager and the trustees of the lottery together this past week. That lottery trust account is set up for a specific use and no moneys can be taken out of that for any other use.

**Mr. Singer:** Perhaps that's an exceptional one. To what extent, other than accounting, do you look to the use of those funds after they have been collected? Or do you?

**Mr. Fisher:** Yes, we do. We pick out a lottery report at random. We'll say that it happens to be one in municipality X. We go in, and if they operate a lottery and supposedly had \$5,000 from the trust account last year and they run a lottery this year, there is another \$5,000. They either have the \$10,000 in the trust account, or they have receipts to show that they have paid out the moneys for various programmes or services to substantiate the \$10,000.

**Mr. Singer:** All right, supposing they don't? One thing you can do is deny them a future licence, but what power have you got about funds that might have been misappropriated?

**Mr. Fisher:** Well this brings up a point. You see, our authority to license is taken from the Criminal Code, section 190. Once was issue a licence the Criminal Code allows the Ontario Provincial Police anti-gambling branch to take over from there. In other words, as soon as we issue a licence, it becomes a police matter.

If there are any lottery trust accounts where we feel there has been—I was going to say fraudulent practices; maybe that is a little strong—something unusual, we have the OPP take a look at it.

**Mr. Singer:** Suppose, for instance, somebody comes to you and says: "We want a licence to raise money for the Pat Lawlor retirement fund"; and they manage to convince you momentarily that that is a worthy fund. A little later on you have a look and you decide that the Pat Lawlor retirement fund is really only for the personal use and enjoyment of Pat Lawlor; how can you get at that?

**Mr. Lawlor:** Well, we can but hope. That would have to be under canon law though!

**Hon. Mr. Clement:** That would be under the religious institutions exceptions.

Interjections by hon. members.

**Mr. E. J. Bounsall (Windsor West):** Completely charitable!



Mr. Lawlor: It's the great and universal church of which I am the only member.

Mr. Fisher: Maybe I could answer it this way, Mr. Singer; this becomes, in the first instance of application, an interpretation of what the proceeds are to be used for. The application for it tells us the what, where, how and who and why; by the time we screen those potential applicants, I would suggest that, possibly, we have made sure that it is for community benefit programmes.

Mr. Chairman: Are these charitable in the same content as deductible expenses for charitable donations under the Income Tax Act?

Mr. Fisher: That's a good point, Mr. Chairman; and the answer is yes, they must have a federal income tax exemption for this.

Mr. T. A. Wardle (Beaches-Woodbine): Mr. Chairman!

Mr. Chairman: Mr. Wardle.

Mr. Wardle: To the minister, does your department require an audited statement after a large lottery has been conducted?

Hon. Mr. Clement: Yes, within 30 days.

Mr. Wardle: An audited statement by a chartered accountant?

Hon. Mr. Clement: Oh, I don't—

Mr. Fisher: In the large ones, Mr. Minister, yes.

Hon. Mr. Clement: Within 30 days.

Mr. Wardle: What amount would that be?

Mr. Fisher: We are talking of \$50,000 and over.

Mr. Wardle: They would require a chartered accountant's audited statement?

Mr. Fisher: That is correct, sir.

Mr. Wardle: Right!

Mr. Chairman: Any more questions?

Mr. R. F. Ruston (Essex-Kent): Yes, Mr. Chairman. Is it necessary to have any form of licence from any agency, either municipal or provincial, for draws of under \$50?

Hon. Mr. Clement: I suppose technically, if you didn't have a municipal licence, you might find yourself contravening the provisions of the Criminal Code. Let's face it, that sort of activity is constantly carried on

at dances and parties and factories and this sort of thing. It's like the famous hockey pools which seem to exist even right in these buildings.

I wouldn't think that anybody is going to get into much difficulty over it. As I understand the law, if a group of people get together and make a small wager, which is really what you have, there is no public participation per se, I doubt very much whether any Crown attorney would ever consider launching a prosecution.

Mr. Ruston: Political parties, I take it, are not eligible for any type of lottery? Is that right?

Hon. Mr. Clement: I don't think they would be.

Mr. Ruston: Thank you, Mr. Chairman.

Mr. Chairman: Any further questions? Mr. Lawlor?

Mr. Lawlor: I thought you were hiding behind the minister, Mr. Chairman.

Just two questions: There were grave legal doubts about the sweepstake type of lottery at the initiation of this legislation, and the betting pools with respect to football or hockey and things like that. It was finally resolved by the law officers of the Crown that they were probably legitimate. Are there many lotteries of that type?

Mr. Fisher: We have a considerable number of lotteries of that type, the smaller ones, Mr. Chairman. Canadian Mental Health, Toronto branch, recently completed one, and it was on the outcome of the NHL playoffs. We had several last year on football. We allow anything except betting on horse racing.

Mr. Lawlor: The one that was going on inside this building, with respect to the hockey game, was it registered with someone?

I don't want an answer to that question.

Have you had occasion at all since the scheme commenced to suspend or cancel licences?

Mr. Fisher: Yes, we have; on three occasions in the past year.

Mr. Lawlor: Have you the power; or what do you do? Do you refer to the Attorney General? I am thinking about convictions. You don't handle that end of it, eh?

Mr. Fisher: There again, Mr. Chairman, it becomes a police matter. The OPP anti-gambling branch handles those.

**Mr. Lawlor:** Of the three in question, which you mentioned, were any of them charged as far as you know?

**Mr. Fisher:** The answer is no to two and yes to one.

**Mr. Chairman:** Any more questions? Item 3 carried?

Vote 1304 agreed to.

On vote 1305.

**Mr. Chairman:** This brings us to vote 1305, item I, the property rights programme; programme administration.

**Mr. Wardle:** Mr. Chairman, does the matter of condominiums come under this particular section?

**Mr. Chairman:** Yes, it should somewhere.

**Mr. Wardle:** If it would—

**Mr. Chairman:** I would think it would come under real property registration.

**Mr. Wardle:** All right; I'll mention it first on that section, Mr. Chairman.

**Mr. Chairman:** Any questions on item 1?

**Mr. Lawlor:** I don't quite know what comes under item 1, Mr. Chairman, with respect. I have an item here I want to discuss with respect to the role of auctioneers, for instance in the real estate business, and their role with respect to selling property and whatnot. I wondered if you investigate these?

**Hon. Mr. Clement:** I don't have jurisdiction over auctioneers; I don't think.

**Mr. Lawlor:** That's precisely the problem.

**Hon. Mr. Clement:** I had better look in the records. No. I think it is the Attorney General's ministry.

**Mr. Lawlor:** I don't know what ministry it is.

**Mr. Singer:** Well, if it isn't you, it must be him.

**An hon. member:** It is not in your list of statutes?

**Mr. Lawlor:** I have a letter from the Provincial Secretary for Resources Development (Mr. Lawrence) in front of me. Mr. Renwick asked me to bring this up. If I may, it won't take very long. The minister is saying to Mr. Renwick that behind the sale, and we have in our possession a newspaper ad where a con-

siderable number of lots, 42 waterfront lots and 14 chalet lots and so forth, from the Peterborough area, would be auctioneered off by this particular company, Gimblet and Associates.

**Hon. Mr. Clement:** Gimblet?

**Mr. Lawlor:** Gimblet.

**Mr. Singer:** He is president of the local Conservative association.

**Hon. Mr. Clement:** It sounded to me like a drink.

**An hon. member:** Quite a drinker too!

**Mr. Lawlor:** There's no use asking any questions about it. He's sacrosanct, apparently, completely outside the Real Estate Act; and as a positive exemption therefrom, the licensed auctioneer may dispose of lots.

What check have you got over these people? Ought they not to be brought under your surveillance? That's my point. Auctioneers are not bonded, as there is no such requirement.

**Hon. Mr. Clement:** I don't know if auctioneers are licensed by the AG's ministry, or whether they are licensed municipally. Are they?

**Mr. Singer:** Licensed municipally!

**Hon. Mr. Clement:** Yes, I think it is a municipal licensing arrangement.

**Mr. Singer:** Under the authority of the Auctioneer's Act.

**Hon. Mr. Clement:** The thought's never crossed my mind. I would suspect they don't charge brokerage on the sale—in fact they charge a fixed fee; which is, I suppose, touching on the question which you raised as to whether they're contravening the Real Estate Business Brokers Act.

**Mr. Lawlor:** No. Mr. Minister, they are specifically exempt under section 5, I believe.

**Hon. Mr. Clement:** Are they exempt?

**Mr. Lawlor:** Yes. But my problem is that here they're dealing in lands, and they are holding themselves out as competent so to deal. And while they may auctioneer generally, I think it's in a wide range of other fields that they—

**Hon. Mr. Clement:** Do they really make representations to people? Usually those sales are conducted right on the premises, very

often as the result of a municipal or personal seizure.

**Mr. Lawlor:** Yes.

**Hon. Mr. Clement:** And presumably the buyer reads the terms of the sale, which usually says "strictly cash" or "10 per cent down and the balance to follow in 14 days subject to adjustments", this sort of thing; to give the purchaser an opportunity to examine the title at his own expense.

**Mr. Lawlor:** Well, my friend Bertie Lawrence says here: "However, the Department of Municipal Affairs may be interested in the fact that the auction was held within the boundaries of Metro, while the location of that auction is outside of Metro." I have referred the matter to them, but I've had no reply on that particular matter.

**Hon. Mr. Clement:** I have not received any complaint or complaints since I've had the responsibility. I've just had absolutely no inquiries about auctioneers whatsoever, or complaints relating to them.

**Mr. Lawlor:** Well, I would think that perhaps you would give it a bit of a perusal and speak to Mr. Cox about it. There may be a loophole in the real estate law in that area that should be perhaps thoroughly investigated.

**Hon. Mr. Clement:** Yes.

**Mr. Lawlor:** I'll leave it with you for what you want to do in the future on that.

Another aspect I want to mention, which I suppose would come under the generalities of these votes, would be: Did you know of an outfit, Ontario Journal and Tax Sale Register? It has been around for many years. There's a letter I want to bring into the record. It's dated April 4, 1973 from Mr. J. P. Cox. He says:

This organization has been known to us for many years. They compile a register of available municipal tax sales.

In some instances the company will purchase on its own account such tax sales. They make available to the public a release of municipal tax sales for a subscription fee. These lands are usually in outlying areas of the province, and in many cases are abandoned farms or almost inaccessible lots. Their advertising is mainly in American and European outdoor magazines.

Over the years we've had a number of complaints about this and other similar

groups operating on a national-international basis. We usually discuss the matter with and refer complaints to the OPP fraud squad.

If it comes to the point that the fraud squad is called in on these particular matters—and well they may be, too, because I have in my possession here photostatic copies of a sports magazine in the United States which contain their ads, in which they make rather glowing overtures to the stranger to come and pick it all up if they possibly can.

One dollar an acre is what it is advertised at, and they talk about the mineral and the forest rights, and that the forest rights themselves would help pay for the property over long periods of years, particularly since it refurbishes itself. In one section here it says: "No income tax is payable on profits made,"—this was recent—"on real estate in Canada, such is regarded as capital gain." In other words, they don't even represent that capital gains are presently taxable in this country, and there's a considerable come-on in terms of the pictures and the glorious lakes of our 250,000 tranquil lakes, a hunter's paradise, all this sort of thing—pages after pages setting forth properties. Forty acres for \$1,200 here in the Kenora area; maps are attached thereto and various forms of advertisement touting their product—as I say, largely to an American market, not this one.

I find something reprehensible about this, but in a much wider general area. There should be some registration of the individuals involved in this particular thing, I suspect through your ministry.

Secondly, there should be some limitation on the selling of these lots at these knocked-down prices to people outside of the country. These are very often waterfront lots, as has been indicated in the advertisement itself. This is a sellout of our natural resources.

**Hon. Mr. Clement:** Well my only comment, Mr. Lawlor, would be, firstly, I have seen those ads in publications like Field and Stream, primarily a US publication. As I understand, it's just a compilation of information which is made available from local municipalities, particularly in rural areas.

I would submit that this is a matter that Mr. Cox of the Real Estate and Business Brokers Act division should take a look at, as opposed to this particular estimate, which really deals with the registration of documents.

I think your point is well taken. Obviously that information is out of date and it would



appear to be somewhat misleading. We don't want to give any credence to those kind of ads particularly, and I don't mind trying to figure out what legislation we would have, other than perhaps existing legislation dealing with—

**Mr. Lawlor:** False advertising?

**Hon. Mr. Clement:** —real estate and business brokers. I suppose these people are not really brokers. They're not selling property. They're just selling you the information, aren't they?

**Mr. Lawlor:** That's true.

**Hon. Mr. Clement:** For a subscription price; and then you follow it up from there, I suppose. I don't know. I've never looked into it. I think we've had a couple of complaints from outside of the jurisdiction, dealing with these ads.

**Mr. Lawlor:** I was going to ask you to ask Mr. Cox, with your permission, Mr. Chairman, as to any such complaints to the OPP fraud squad under this head.

**Hon. Mr. Clement:** Oh, Mr. Cox is here! I'm sorry, I thought he'd gone.

**Mr. Lawlor:** How many complaints have so been referred?

**Mr. Cox:** Over the years, Mr. Lawlor, we have had a good many.

As the minister said, these people are advertising a register of information, and as such are exempt under our Act. Any lands they have picked up themselves they own, and again are exempt under our Act. They're dealing in their own property. The odd one we get where it's an out and out fraud is turned over to the OPP. They investigate it and in a good many instances get the money back.

We picked on one particular company so often they moved down to Montreal, and are selling Ontario property out of Quebec to Americans. But the OPP seem to have a long arm and they've even picked up refunds from down there.

But as far as the Real Estate and Business Brokers Act goes, they are either selling information as to where these lots might be picked up from the local municipalities, or they own the property themselves and they are dealing in their own properties.

**Mr. Chairman:** Mr. Lawlor, you might clarify the date of that advertisement.

**Hon. Mr. Clement:** I think he said it was April, did he not? April of this year.

**Mr. Lawlor:** I didn't say the date.

**Mr. Chairman:** I don't think he mentioned the date.

**Mr. Lawlor:** No, I didn't.

**Mr. Chairman:** In connection with the capital gains—

**Mr. Lawlor:** I'll leave it with Mr. Chairman for the time being. I can't see any actual date on it. The constituent who found this says it is very recent.

**Mr. Singer:** Whether it is recent or not, the way they are touting that date sounds as though it's an investment venture, and then they will be in business and possibly subject to income tax.

**Mr. Chairman:** Yes, I just thought it fair to clarify the point made by Mr. Lawlor as to misrepresentation of fact relating to whether or not the resale of land would be a capital gain without disclosing the date of that particular advertisement.

**Mr. Lawlor:** Well, I will certainly get you the date of it.

**Mr. Singer:** They didn't say there was a capital gains tax. They said it would not be subject to income tax, as I heard him.

**Hon. Mr. Clement:** It read: "No income tax is payable on profits made on real estate in Canada as such are regarded as a capital gain."

**Mr. Singer:** That's an improper statement, to begin with.

**Mr. Chairman:** It is today.

**Mr. Singer:** It always was.

**Mr. Lawlor:** It always was, that's right. If you are dealing in lands, of course, it is within income tax.

**Mr. Singer:** In fact, the law has gone so far as to say a single transaction in real estate can be an income gain.

**Mr. Lawlor:** It depends upon intentions.

**Mr. Chairman:** It could or could not be, depending whether you're in the business of selling land.

**Mr. Singer:** No.

**Mr. Chairman:** I don't want to become argumentative, I was just wondering if there was a date on that, because it is obviously a capital gain today.

**Hon. Mr. Clement:** Here's one you might take up right away—

**Mr. Chairman:** At least, excuse me, it is obviously not—

**Mr. Singer:** Some of them are capital gains and some of them are taxable as capital gains, and some are income.

**Mr. Chairman:** Excuse me, it is obviously taxable today.

**Mr. Singer:** Either way, yes.

**Hon. Mr. Clement:** Would you agree with this statement, Mr. Singer? "A tax deed gives questionable title in law, period. Once issued, property cannot be taken back or redeemed by former owners."

**Mr. Lawlor:** That's not true.

**Hon. Mr. Clement:** It sure isn't.

**Mr. Lawlor:** It wipes out certain easements and so on, but it doesn't wipe out everything.

**Hon. Mr. Clement:** I think we could probably pick up some pretty good buys here.

**Mr. Lawlor:** Yes, I think so.

**Mr. Singer:** Something good up there at Polar Bear Park.

**Hon. Mr. Clement:** Here's one dealing with the blueberry crop.

**Mr. E. M. Havrot (Timiskaming):** Mr. Chairman, I notice that all the items under the property rights programmes are up considerably. Is there some expansion in this particular department?

**Hon. Mr. Clement:** There sure is.

**Mr. Havrot:** You have about 25 per cent on item number 2; and 91 per cent on item 4, for example, and 58 per cent on item 5.

**Mr. Chairman:** Are we dealing with item 1 now?

**Mr. Havrot:** Item 1. There is a drop of \$195,000. I won't question that.

**Mr. Chairman:** Any further questions on item 1? Item 1 agreed to. Item 2, real property registration.

**Mr. Wardle:** Could I speak on condominiums at this point Mr. Chairman?

**Mr. Chairman:** I am sorry, I didn't—

**Mr. Wardle:** Condominiums, Mr. Chairman.

**Mr. Chairman:** Go ahead, Mr. Wardle.

**Mr. Wardle:** Mr. Chairman, it is brought to my attention by Alderman Irwin, of the borough of East York, that on May 7, that council passed a resolution, moved by J. R. Irwin, seconded by A. A. S. Redway. I should like to read the resolution, Mr. Chairman. There seems to be a suggestion here that should be considered by this ministry.

Whereas the obtaining and registering of a condominium plan and description is a matter in control of the developer of condominium units.

Whereas by the very nature of condominiums purchasers are required to enter into purchasing agreements which are conditional on registration of the condominium plan and description;

Whereas a developer of condominium units in the borough of East York has rescinded certain of such conditional purchase agreements resulting in much hardship to the proposed purchasers.

Therefore the council of the corporation of the borough of East York recommends to the hon. Minister of Treasury, Economics and Intergovernmental Affairs, that safeguards be created to protect proposed purchasers once a developer of condominium units has signified to the hon. minister that the developer is applying for condominium approval; and that there be a requirement that the developer shall move expeditiously to obtain the necessary approvals.

The purchase agreement shall not entitle a developer to rescind or otherwise abrogate the agreement for a period of two years after its execution; or the purchaser shall be entitled, notwithstanding anything contained in the document, to rescind or abrogate the agreement after one year of its execution or as such shorter time as may be specified in the said agreed

This resolution was passed on May 7, 1973, and signed by the mayor, Willis L. Blair, and the clerk, D. H. Tucker.

I am just wondering, Mr. Chairman, if the minister would have any comments on the substance of this resolution?

**Hon. Mr. Clement:** Yes, I do.

Firstly, pertaining to that Hollowell Terrace, we received certain complaints and

looked into them. In a number of complaints we found out that solicitors had advised their clients, after perusing the condominium agreements, not to enter into them. In spite of that advice, some people went ahead and entered into the agreements. The people now find themselves in a very unenviable position.

The Condominium Act, when it first was prepared and legislated—I would suspect, and I'm going on memory, possibly four years ago give or take a year—really pertained to the requirements for registration, because it's a completely new concept in the field of real estate law.

**Mr. Singer:** In Ontario.

**Hon. Mr. Clement:** In Ontario! And it has become apparent with the passage of time and the experience of people who have run into problems, that since no other agency of government seems to be stepping in to legislate in this area, that we had best do so. I'm taking an amendment to the existing Act to my policy field on Thursday of this week. It will, number one, deal with certain updating of the requirements insofar as registration of a condominium plan and agreement is concerned, as well as set out certain substantive offences and deal with the guts of the matter, if I may use that expression.

I guess we've moved in by default, because we've had a lot of inquiries in this particular area, and we're relative novices in Ontario insofar as condominium arrangements are concerned.

But I think you read in the press—I don't know if it's the same case or not—where an agreement took effect upon registration and the owner appeared to refuse to register so people would not find him bound by the agreement. He went back and asked for additional funding from each individual owner, and it's this sort of thing that has been pointed out to potential purchasers.

There are a lot of problems, because there is the very wealthy, very exclusive type condominium arrangement, whereby you have professional managers who do a great job. On the other hand, in so many of them the people feel they can band together to form their own organization and hire their own directors. Then they find that the person in charge of hall maintenance isn't doing his job, and there's a great deal of difficulty. I think one of the answers may lie in making it mandatory for all members of condominiums and other related projects to perhaps be licensed, to register with us. We're looking into that area. The main problem is finding

out who is in charge of a building, who is the manager.

**Mr. Wardle:** Do you feel, Mr. Minister, the suggested legislation you are bringing forward will look after the situation in East York, and also similar situations throughout the province?

**Hon. Mr. Clement:** I'm sorry, I didn't hear you.

**Mr. Wardle:** Do you feel the legislation you are bringing in or suggesting will cover this type of situation fully?

**Hon. Mr. Clement:** Well, hopefully it will do so; not retroactively, I suggest. But for future development this seems to be a popular method of almost communal living. It's much more broadly known in other areas, even in other parts of North America.

**Mr. Wardle:** Thank you.

**Hon. Mr. Clement:** A very complex field of law.

**Mr. Chairman:** Mr. Singer.

**Mr. Singer:** Mr. Chairman, on this condominium question—in the estimates last year I laid out a programme, I think of 10 aspects of the Condominium Act—or lack of provisions in the Condominium Act—that I thought were important. I'm not going to bother to run through them again. I think I spoke at that time for perhaps one-half to three-quarters of an hour. But there are a great number of defects in the Condominium Act. We've touched on some.

There is a question of a lien on one being a lien on all the units. There is the question of a condominium development being started which doesn't work; well as has happened now where suddenly they have raised the price notwithstanding earlier contracts, or they have decided to revert into rental units.

There is the whole management question. When you start you may get in with good managers and later be concerned with the continuity of management, the prices that management may charge at a later point, and so on.

There has been a fair bit of study in this jurisdiction about the faults relating to condominium law. At this point in time, certainly when you bring your Act forward I will have a pretty good look at it, but I would suggest to you that you might have a look at the comments that were made at the time of the housing estimates last year.



I think Ontario Housing has run into great difficulty with these condominium units in cases where it buys condominium units, or it buys what it thinks are condominium units, that eventually turn into rental units. I have a huge one, a Peel-Elder development up in my riding, which started off as probably one of the largest concentrated condominium developments in Ontario on what was called the old Forest Hill golf course. They just weren't selling the condominium units.

I think it was in the last election that I met one fellow sitting in an apartment who apparently had bought a condominium. He was quite happy, because the thing wasn't registered until they got so many tenants—the mortgage moneys weren't coming—so he was staying there and nobody was collecting his monthly maintenance fee. He was the only one in this huge building. Eventually, I think, they reverted back to rental units.

But the continuance of policy, the obligations and so on, are very important. Mayor Lastman, of North York, has spoken about this on several occasions. Those people on municipal council in the suburban areas of Metropolitan Toronto—North York, Etobicoke, Scarborough—all have experienced—East York is another one—very substantial difficulties. We have only touched on a few of them.

There is a very long list of defects and I am glad to hear you say that you have legislation in mind. We will look forward to seeing it. It is not simple, there are a lot of problems, and I am surprised there haven't been more people hurt, because there is all sorts of opportunity for people to be taken for a ride.

**Hon. Mr. Clement:** So am I. We have generated some policy on it as a result of input from many individuals and organizations. We will be proceeding with it in the policy field on Thursday of this week.

I would like to give you some figures which are rather astounding. These are declarations under the Act as to condominiums: In 1970, 3,328; 1971, 6,458; 1972, 12,760. And those are units. It has doubled each year from 1970 to 1971 and 1971 to 1972. So they are obviously here with us and—

**Mr. Singer:** But you shouldn't be deluded by those figures. What has happened is that the availability of residential accommodation has become so scarce, certainly in Metropolitan Toronto, that people who under other market conditions would have bought themselves a single-family home or part of a duplex, or even row housing, have found

these things priced absolutely beyond their means.

Now they feel that they own something or they have an opportunity of owning something which is within their reach. The price for a condominium unit is far less. So with the desire to have something in the way of real estate that they can own, they have entered into these things, because it is the only ball game available.

I think it is lucky that we haven't had more trouble, but there is all sorts of room for trouble. If the real estate market ever turns sour, if the condominium market ever turns sour, and we have seen a couple of sort of nibblings of this, there is going to be a tremendous amount of trouble. One of the things you have got to do is take that Act and really put the screws in it and tighten it up.

**Hon. Mr. Clement:** Have you ever advised anybody on this?

**Mr. Singer:** I invariably advise my clients that they are foolish to buy a condominium unit. They come in and say: "We bought one anyway." And then I search the title, but I have advised many clients who have come in—well I wouldn't buy a condominium unit if I had no place else to live. I just wouldn't buy one. There are so many dangers apparent to me.

**Mr. Chairman:** Mr. Lawlor?

**Mr. Lawlor:** I have before me a letter signed by Mr. Clement dated March 7, 1973, to my friend, Mr. Renwick. In this letter he says in paragraph one from the bottom:

We realize there will have to be some amendments to the Condominium Act. However, I do not know what type of legislation we could develop that would enable us to intercede in this type of situation, if the solicitors involved have allowed the purchasers to sign agreements which contain what appears to have been an escape clause.

Now the minister is setting the standards and priorities infinitely too high. If he, as a practising solicitor, received the condominium agreement involved in the Halliwell situation—yes Halliwell Towers on Broadview Ave.—I would have thought that as he looked at it he would certainly have felt subject to Mr. Singer's misgivings.

But we are not all as affluent as our friend. And with that in mind, a lawyer might be very easily seduced into saying that this is permissible for signing without

deletion, amendment, alteration, or anything of any other kind.

**Mr. Singer:** They won't change a line in it.

**Mr. Lawlor:** They won't change them any way. If you want to buy you have to—

**Mr. Singer:** They won't change a line in it.

**Mr. Lawlor:** That's perfectly true; and—

**Mr. Singer:** There is no point in trying to bargain with the lawyers who act for these developers. They won't bargain.

**Mr. Lawlor:** I am just looking at a clause here which seems to be perfectly innocent on the face of it. The legal profession ought not to be hung up on this particular kind of issue. It says:

Disagreements arising in the transaction are conditional upon the following:

(a) The approval of the purchaser by Housing Corporation Limited;

Fine, that makes sense.

(b) Compliance with the provisions of section 26 of the Planning Act, amendments thereto.

That is the escape clause in the situation.

It being completely understood and agreed that the exemption, by virtue of section 24(1) of the Condominium Act, shall be conclusively deemed to be in compliance with this provision.

Well, you know, again you want them to comply with section 26 and with the other section 26 of the Condominium Act and so on; you would bow your head and say all to the good. Finally:

The registration by the vendor of a condominium plan and description, and a declaration of bylaws previously referred to on or before closing, the purchaser hereby acknowledging that the same have not, as of this stage, been registered.

How the purchaser would really be in a position to acknowledge that without his lawyer checking the title I don't know, but he blindly, as he must under this agreement, proceeds.

There is nothing wrong from the point of view of legal advice under that particular head. Clause 19 says:

If the completion of the units or the common elements is delayed by reasons of

strikes, lockouts, fire, lightning, tempests, riot, war, and unusual delay—

Then certain things happen. And this one was. Because of the elevator strike it was delayed interminably. The failure to register the plan—it had never gone forward either by dilatoriness, by deliberate delay on the part of the builder so he could rig the situation, so that he could come along afterward and say: "I am cancelling out everything."

A condition which I thought was a condition construed in favour of the purchaser rather than the vendor exists. But he says: "A condition exists which exempts me or permits me a way out. I am now exercising this and you can have your deposit back or you can buy the property for somewhere between \$1,200 and \$4,000 more than you had proposed to pay at the beginning." In other words, he will have a brand new deal.

Now in those circumstances it is not enough for you to throw the weight back on the legal profession. You must move in on the situation with an amended Act. By the way, the amendment is rather simplistic. I am looking at a letter from the Ray Russell and Rogers firm, signed by Robert Dick, in which he states:

The Condominium Act could possibly be amended by prohibiting a contractual clause such as was found in our situation.

The clause in question stated that the closing date was a certain fixed date or the date of registration of the condominium, whichever was earlier. If "earlier" had been changed to "later", the problem would have been resolved. I doubt that legislation is required, since I now change these clauses as I see them in the condominium contract.

**Hon. Mr. Clement:** I thought you said you couldn't change them, that they wouldn't accept them.

**Mr. Lawlor:** Ah! My experience—

**Mr. Singer:** It depends on the day-to-day condition of the market.

**Mr. Lawlor:** Well he may change them, but I have never been able to.

**Mr. Singer:** I haven't been able to, either.

**Mr. Lawlor:** They just toss them back and say, well, if you don't want it, somebody else will take it. It is a sellers' market and they don't give a—



**Hon. Mr. Clement:** I think it was incumbent, though, upon each solicitor involved—and I don't know whether they all did this—to point out that if that agreement was not registered, that declaration was not registered, it may provide an out for the owner, regardless of the reason for not registering the declaration.

Again, some solicitors did specifically advise them of this, and it was especially drawn to our attention. In spite of this, as I mentioned earlier, people went ahead and paid their deposits and entered into the arrangements.

**Mr. Singer:** All you can do is advise a client. But he doesn't necessarily take your advice.

**Hon. Mr. Clement:** That's right. But from some of the complaints that have come into our office, it would appear they were not advised by the solicitor that there was a possibility of the declaration not being completed.

I can't recall the specific letter to Mr. Renwick, but I know that about the approximate time they inquired about it, we made inquiries and found out that not everyone had been advised. Many people, of course, took the forthright position that had they been advised they would not have entered into the agreement. However, I can't verify whether this is true or not. I wasn't there.

**Mr. Lawlor:** I think an overwhelming number of people would not have been advised. You know these things come in almost constantly now. The pressure is such by the people involved in the sales as to get them signed.

Again, as you yourself said the other day, when you think there are six people standing on the lawn waiting for a contract to be signed, you think it has to be signed with the utmost urgency. To see a lawyer, you think, is only asking for trouble. I think that is a kind of abusive business practice, if not an actually immoral position, taken by many people selling this kind of property and others on the market.

**Mr. Singer:** But unfortunately, today on the market in Toronto it is true, because units are going for \$2,000, \$3,000 and \$4,000, above the listing price. The listing price always has been an artificial price. It's the point where we start to bargain and in the past we always bargained down. What is happening now is that we've started to bargain up from the listing price when there

are two or three eager purchasers in competition with each other.

Well, a situation has been reached that this minister isn't responsible for. But it's one that the government, I guess, is responsible for in supplying housing accommodation. And we just haven't got housing in Metro that's within the reach of the average income earner.

**Mr. Lawlor:** I would ask that the minister take the nostrums on that very matter as to the point in time. That if the registration of the plans and what not cannot be proceeded with and is not ready, that would indicate the date from which the notice would be issued—the 15 day notice—as to being ready to close. And there should not be an earlier date on which they can string somebody up by their heels. And, I suggest to you, Mr. Minister, that this should be put into effect.

Some of the people involved were a Mr. and Mrs. Walter Brown, who have written a very good letter to Mr. Renwick on this. I wanted simply to put it into the record. Apart from the loophole and the abuse we have set forth here, in this particular case, they resolved through negotiation by another solicitor on their behalf. They split costs between dates of possession and dates of closing and made a deal with the condominium owner, and everybody came out a little better off than they might otherwise have done. This shows a certain amount of flexibility on the part of these particular developers, although they have another problem.

Another feature which could yet cause us trouble is the fact that the builder developer is the manager through a subsidiary company. This, in my opinion, constitutes a conflict of interest.

It is, after all, the duty of the building manager to see to it that repairs and other incomplete work are carried out under the builder's agreement. But in the circumstances, where the manager is in reality the builder, then there is the opportunity to have this work delayed and done after the first year, while we have to have the builder's manager, and then charged back through our common expenses as with other regular maintenance costs. I feel this should be required by law, that the building should be managed by a truly independent management company.

That would be another head upon which probably, and no doubt, your legislation is deficient.



**Mr. Singer:** That point is a very interesting one. While there is that conflict, and I can recognize it, there is an even more serious danger if the builder-owner-manager walks away at the end of two years, or says he is going to double his fee. All those nice people who bought condominium units could be in very serious trouble, because most of them have no great management experience or hiring experience—or anything else. And there's a very serious difficulty about arranging continuity of management.

It became apparent last year that some of the people with building management experience—trust companies and so on with large real estate departments, have been walking away from commitments in this regard. And if a condominium council within a particular development on its own had to acquire new building management, it could be in very serious trouble. I don't know what the answer to that one is.

**Hon. Mr. Clement:** Condominium residents are so dependent upon third parties. It's not like buying your own house and—

**Mr. Singer:** That's right. Now I'm not sure whether it is better to accept this conflict for awhile, with all the evils it might bring—or accept nothing, or at the end of the two year limit double management fees.

**Hon. Mr. Clement:** The Chairman mentioned, just while you were talking, Mr. Lawlor, that very often mortgage companies insist that a management contract be entered into, as a condition of advancing money. They just won't advance any money unless they have a chance to see that the management contract has been entered into and approve of it.

**Mr. Lawlor:** That's an interesting point, because no doubt at the beginning that may be so.

I have another fairly substantial file here having to do with an Arbour Glen condominium unit in Oakville, and there the difficulty is fairly well known. It's not unknown to the minister—the business of selling a certain number of condominium units and renting the rest as an investment, so that the whole problem of common expenses may be met.

But to deal with the minister's reply—

**Mr. Singer:** And the council then is controlled by the landlord.

**Mr. Lawlor:** Exactly. I wrote to this gentleman on Feb. 20. My third point was:

Thirdly, it would seem to me that the first mortgagee would have a profound interest in what is going on, particularly if the people under rental tenancy would not have the same interest in protecting the premises as those with rights of ownership.

And the reply to that from these people in Oakville was:

Your third point, strange as it may appear, is not correct. We have approached the Metropolitan Trust Co., the first mortgagee, but they have expressed confidence in the developer; and it would appear so long as they receive their moneys they will not make any move against any of their larger customers.

The very problem involved in this particular situation has to do with the rental units. It is a fairly widespread one, because again I have a press clipping here:

POWERLESS OWNERS OF KINGSVIEW  
ON DIXON ROAD

The board members represent 650 owners out of an eventual 900 in this huge condominium whose average investment of \$20,000 totals something like \$13 million. Yet they are virtually powerless and have no operating budget. The reason is a clause that requires that the project will not be turned over by the developer, Del Zotto Enterprises Ltd., until 80 per cent of the 900 suites have been sold.

Which means there have to be 720 sold. At this time there was 650. So I mean he has complete jurisdiction as to whether or not he sells them. He may not want, at that particular stage, to sell them. And then we get into the position, back to Arbour Glen. In reply to my second question, I say:

Second, there seems to be no way that an owner can escape contributing to the common expenses and maintaining the building via this fund. I read your letter to indicate that this was not being done.

The reply to that was:

We would like to explain the second question you have raised as follows. We are paying our maintenance fees to the property management, that is, Del Zotto [again Del Zotto] for the maintenance of common elements every month. What we tried to say in our previous letter is that we feel our maintenance fee for upkeep of the common elements is being used by the developer, since he is the owner as

well as the property manager, for the rental apartments rather than as to the common elements, resulting in a general neglect and the overall rundown condition of the building.

This is a brand new building, with elaborate advertising showing every conceivable amenity under the sun.

Finally, under this particular head, there is a note in the Star that Caledonia Rd. was renting suites to people instead of selling them. This has to do with Greenwin Property Management.

**Mr. Singer:** Caledon Village.

**Mr. Lawlor:** Caledon Village, yes.

**Mr. Singer:** Yes. That's a new one in my riding.

**Mr. Lawlor:** Now there—

**Mr. Singer:** It depends on the vagaries in the market from day to day. The developers get into the position, for a while, that their units are not selling fast enough, so they rent them.

**Mr. Lawlor:** Right!

**Mr. Singer:** Peel-Elder, the one on Bathurst St., fortunately was a very wealthy company which could withstand vacancies and tried to stick to the condominium. That is why my one voter in that whole big apartment building stayed there for about eight months without paying anybody anything. It sounds very funny.

**Mr. Lawlor:** I think you will agree it is defeating the whole purpose of the Condominium Act. It becomes, to my mind, a sort of vague misrepresentation—maybe not so vague at that—of the whole position upon which these people originally rented as condominium owners, with the rights in fee simple and the sense of overall ownership, rather than merely a time tenure as in the lease situation.

I don't think there is any question of discrimination, one against the other, except in the different amenities and prerequisites of title obtained with respect to the different sorts of ownership. By not selling on one side it defeats the whole purpose. There should be some kind of time limitation on allowing rentals.

In other words, they may rent for six months or they may rent for a year, whatever is reasonable, you think, within your legislation, but it must terminate at some point.

It can't go on ad infinitum, leaving the other people dangling—a considerable number of people, 650 families, in one particular case.

That, again, is a grave hiatus and defect in the present legislation which, again I suspect, could be overcome with a little work and attention. The condominium man in your department, to whom I spoke at some length one day, is thoroughly aware of all of these things and says that they are working like trojans trying to bring in the amendments that will close the holes in the present legislation.

One final thing I wanted to say. I notice Mr. Wronski, of the building department, says that this would probably fall under your building codes item a little further back, so I'll just mention it for a moment. More stringent building standards should be considered for condominiums.

Wronski, in a report released yesterday [this is dated Jan. 15, 1972] suggested the federal or provincial governments should study additional standards for condominiums, including sound proofing, larger rooms, different arrangements of units and architectural appearance.

This is not because he discriminates against other types of rental units but, he simply says, it arises from the more complex interdependency of individual ownership in this particular kind of unit.

**Mr. Singer:** Wasn't he chief planner for Metro?

**Mr. Lawlor:** Yes, he was. Those are my basic points.

**Hon. Mr. Clement:** I think someone here said earlier, and I couldn't agree more, that in view of the fact we've got some 22,000 units registered in the last two years we are very fortunate we haven't had more problems than we have to date. It's a pretty junior industry within Ontario and I'm the first to concede that.

**Mr. Singer:** When the economy turns sour, the real estate market turns sour with it. That's when you could anticipate problems.

**Hon. Mr. Clement:** All kinds of difficulties.

**Mr. Singer:** Yes. I have another point that I want to make if we are through with condominiums. I want to take issue with the minister's answer to a question posed to him in the House today when he tried to slough off the provisions of the Planning Act as they affect registrations. You said you really had



nothing to do with it. All you had to do with it was the mechanical registration of documents.

Now, you deal with two phases of registration. You deal with land titles and you deal with the registry offices. In registry offices, as we all know, the document will be accepted for registration if it's in the proper form. But in land titles it's quite a different thing. Only a document that properly conveys the kind of title that the document purports to convey is accepted.

I think you are right in the middle of it, and I think you have to be concerned now with the kinds of things that are going on. You, personally, as a minister, have to be concerned with the kinds of things that have been going on with Whiterock and Century City and out Norfolk way and so on.

I re-emphasize the question put to you by my leader in the House today, and say what are you going to do about it? I'm not prepared to accept the sloughing off that you did in the House today.

**Hon. Mr. Clement:** I have made a note to look into it. I can't help you when you talk about Whiterock because I'm not familiar with the area, but I do have some familiarity with the area in Norfolk. It's all registry office as of the present time.

I made a note here to discuss the options in Norfolk with my colleagues to ascertain the options—that is the optioning of land—and to ascertain that the Planning Act is not being circumvented.

I'll look in Hansard tomorrow and get the exact wording.

**Mr. Singer:** Let's presume that in the three areas I've identified—Whiterock, Century City and Norfolk—they are all registry office. What instructions does your department give to your masters of titles? They've got a new title now, haven't they?

**Mr. Chairman:** Registrar of deeds.

**Mr. Singer:** Registrars of Deeds; we no longer have any masters of titles; at any event, the fellow in charge of the land titles office. What instructions do you give him? What great answer have you got out of the constitutional questions decision of the court of appeal? What does your probably confused registrar say when he gets one of these things in? I wouldn't know what to say at this point. How does he deal with it?

**Hon. Mr. Clement:** Mr. Priddle, tell them what I tell you to tell them to say.

**Mr. Singer:** Mr. Priddle is chuckling and I don't blame him.

**Mr. R. E. Priddle** (Executive Director, Property Rights Division): It's a very difficult question, sir.

**Hon. Mr. Clement:** Damn right it is a difficult question.

**Mr. Priddle:** For some years now, as Mr. Singer is aware, the former masters of title, now land registrars, had been requiring affidavits or declarations by the solicitors or their clients saying this transaction is not in contravention of section so-and-so of the Planning Act. In many cases, it is very difficult even for a very knowledgeable solicitor to make that statement. It is even more difficult for us, but I really can't say what the answer is.

**Mr. Singer:** I would think that most people who think they are reasonably knowledgeable about real estate matters would have the darnedest time today to try to figure out what the state of the law is.

**Mr. Priddle:** It's very difficult.

**Mr. Singer:** I don't think the court of appeal shed much light on it. It didn't for me, anyway.

**Mr. Deacon:** That predicament is not helping these folks who are left out in the left field in Century City. The same thing can happen now in Norfolk, because of the \$2 per acre option, with 30 per cent down, I think, on closing with the balance on mortgage.

They had no idea, when I was speaking to a lot of them last week, that this sort of thing is exactly what happened with Revenue Properties; those farmers can't get on their land, they can't get title and they can't get anything back. They have had no payments and they are in a really bad way; and we haven't been able to do anything to help them. I think we just have to move on this, even if we have to bring in a special Act to provide the answer in the Revenue Properties mess. I don't know whether or not it will take a special Act, but we have got to find an answer and we have got to be sure the same thing doesn't happen down in Norfolk.

**Mr. Chairman:** Could you define that problem, Mr. Deacon?

**Mr. Deacon:** I beg your pardon?

**Mr. Chairman:** Could you define that problem? Is it the Century City problem you are talking about?



**Mr. Deacon:** Yes. And we are heading into the same thing down in Norfolk.

**Mr. Chairman:** Now I presume that's speculation?

**Mr. Deacon:** It is a matter of whether they are taking up adjoining lands and going to offer them a mortgage back. What happens under section 26 is it becomes a single property, and then they can't do anything with their mortgage. If there is any difficulty financially, the mortgage is useless to them.

**Mr. Singer:** And they can't foreclose.

**Hon. Mr. Clement:** We will look into it, because it has raised a question and I undertook in the House to look into it. I am not familiar with it. Whether they are optioning each farm in the name of a different individual or firm, I don't know.

**Mr. Deacon:** No; it is not.

**Hon. Mr. Clement:** If it's all one common—

**Mr. Deacon:** It's all one common. Cherkas is doing it under one common name.

**Hon. Mr. Clement:** This we will find out, presumably, from our registrar down there, as to particulars of some of these things. I don't know how I would advise anyone.

**Mr. Singer:** You have got an additional responsibility, too, because the theory of government has been, for some considerable time, that we are moving to a land titles system, as slow as we are. But we are moving to it. If this kind of development is getting ahead of the moving, I think this is one of the reasons for it. Many of us, over a long period of time, have said let's do away with this nonsense of registry office and land titles.

I'm not happy with the speed you are making, but at least I can see some general direction. However, you get this kind of development now and people are being hurt, and more people are about to be hurt.

**Hon. Mr. Clement:** I don't know; and I'm glad I'm not in the position of having to advise a client on just what the law is on all areas touching on land.

**Mr. Singer:** If Cherkas and all his friends have guessed wrong about the location of that proposed municipality, you will have another substantial group of farmers who are in great difficulty, because our laws apparently give them very little protection.

**Hon. Mr. Clement:** It might be that the Planning Act may well have to be amended.

**Mr. Singer:** Or it might be that they've guessed correctly, for whatever reason.

**Mr. Lawlor:** Do you consider that within your area of jurisdiction?

**Hon. Mr. Clement:** Not really, but it's like condominiums. I've never considered that, until within the last four or five months, to be within my area of jurisdiction. But I think, by virtue of the void, you have to assume jurisdiction.

We had some discussions the other day with your colleague, Mr. Renwick, about the federal and provincial situations. You know, I don't get much satisfaction out of telling someone that while we administer the Condominium Act, we are really not interested in their problems on a subjective basis, because that doesn't give much satisfaction to the inquirer.

**Mr. Singer:** You are hiding under an umbrella that you tried to hide under in the House today.

**Hon. Mr. Clement:** No, I didn't try to hide under that umbrella in the House today—I wasn't really aware. I had an inquiry the other day as to whether I knew who the principals were behind Century City, and I did not. Meanwhile—

**Mr. Singer:** No; today, specifically, you—

**Hon. Mr. Clement:** Other than today, the only question I have had is that one which was directed to me a week or 10 days ago.

**Mr. Singer:** No; Mr. R. F. Nixon asked that—

**Hon. Mr. Clement:** But he asked me that one today—

**Mr. Singer:** That's the one I say you dodged!

**Hon. Mr. Clement:** Well, to me it is a question of law.

**Mr. Singer:** Well, what we are saying is that the law is far from clear.

**Hon. Mr. Clement:** Yes.

**Mr. Singer:** And the government has the responsibility for making the law clear.

**Hon. Mr. Clement:** Now if I—

**Mr. Singer:** And since you are the one who is concerned with matters of law, then give us some clear laws.

**Hon. Mr. Clement:** Well, if I administered—

**Mr. Chairman:** I think the problem, Mr. Singer, is that—

**Hon. Mr. Clement:** I wish I administered the Planning Act.

**Mr. Chairman:** Yes, we are possibly dealing with the Planning Act rather than the Registry Act.

**Mr. Singer:** Well, surely the public can't wait until you fellows sort out who is responsible for what. There are 23 of you over there and perhaps you will meet some time and decide who is going to do it.

**Mr. Chairman:** Well, in any event, it is not under item 2.

**Mr. Wardle:** Maybe the law should be written by laymen, Mr. Chairman.

**Hon. Mr. Clement:** I wish it was.

**Mr. Chairman:** I am sure the minister will take that under consideration as well. Are there any further questions?

**Mr. E. W. Martel (Sudbury East):** Yes, I have a few.

**Mr. Chairman:** Mr. Martel.

**Mr. Martel:** I have been waiting some time to discuss these, Mr. Chairman.

I want to start by saying I think the minister has done an excellent job on one of the topics I am going to talk about, in his guessing the game being played by the solicitors for Cambrian Real Estate.

First of all, I would like to ask where the report is that his predecessor promised me as a result of the investigation into the dealings of Cambrian Real Estate. I have waited patiently for a year for the report and still have not got it. This is the report on Cambrian Real Estate, which was carried out by the registry department—

**Hon. Mr. Clement:** I don't quite understand your question, Mr. Martel. Are you saying my predecessor promised a report—

**Mr. Martel:** On the investigation into the actions of Cambrian Real Estate in Rockview Estates in Sudbury.

**Hon. Mr. Clement:** I have information that has come to me from time to time as a result of investigations, some of which were conducted following my assuming office. As a matter of fact, on an order from me, I have up-to-date information—but it is not in the form of a report—on the charges that were laid.

**Mr. Martel:** I understand there is a report of about 25 pages. I have a copy of the charges.

**Hon. Mr. Clement:** No, that might be the investigators' report.

**Mr. Martel:** Right—the investigators' report. Eric promised when he was minister that I would get a copy of that report.

**Hon. Mr. Clement:** Well, I will look over there and see what I have got. I have a file, the very thickness of which impresses one, and I will see if there is something there that you might find interesting. But there was no committee looking into it. It is just the investigators' reports that I have in my file.

**Mr. Martel:** I would also like to know what happens to Mr. Shouldice in this deal, in that he held a share of Cambrian Real Estate even at the time the road was in his name. They were playing the checkerboard. Moreau and Wickett lost the licence. They are trying to appeal it, to give it away, to do anything at the present time so they can come back at us later on.

But what happens to some of the other principals involved, like Ross Shouldice, who had the road in his name? Does he get away scot-free in this fiasco?

**Hon. Mr. Clement:** I would like to take this position, because this thing is still sub judice: I will just say that investigations are still continuing with reference to that whole undertaking up there. I don't want to have our comments today taken in any way as prejudicing any of the people involved. What information I do have I will make available to those members on a private basis, if I may—and I don't mean to detract from those who have no real interest.

**Mr. Martel:** That's one of the reasons I haven't brought it up in the last year and a half in the House. I have simply been sitting on it.

**Hon. Mr. Clement:** I just don't want to prejudice this thing when we have come this far.

**Mr. Martel:** Well, I will leave that whole thing. I had a whole series of questions, but there is one that I don't think would have any bearing on it. Has the Law Society written to your department for a report with respect to the conduct of the lawyer who was acting on behalf of Cambrian, Charles Fouriezios?

**Hon. Mr. Clement:** Not to my knowledge. I have had no inquiry from the Law Society—none has reached my eyes. I would like to say that some of the allegations unfortunately indicate some very unethical, if not immoral or illegal activities on the part of a lawyer or lawyers. I, for one, am sorry that that appeared in there in that form, because those allegations were perhaps made in the heat of the chase.

I am not passing judgement as to whether they were right or wrong, but one or two individuals have had their names involved who have not at any time been invited to pass any comment or give any explanation. I deplore that type of thing, because it's character assassination by innuendo, and I find it rather disturbing.

I don't know the lawyers. I know one of them took it upon himself to contact me, because he was genuinely upset. I am just sorry that the allegation took the form it did, and at the conclusion of all these matters, depending on the outcome, I intend to make a statement on it, if certain things turn out in a certain pattern. To name someone and say it's improper and not give him an opportunity to rebut it or explain it, to me is not a wise practice.

**Mr. Martel:** I am trying to stay away from that—and if you think it's improper then I will accept that—

**Hon. Mr. Clement:** I just don't want to prejudice what's going on.

**Mr. Martel:** Right. If you think it is something you don't want to answer, fine—but these are little sidelights that have bothered me for some time. I have made the allegation that the soil tests were crooked in that development. I am still firmly convinced that the soil tests were crooked. Is there any investigation going on in that respect?

**Hon. Mr. Clement:** I don't recollect anything being done with reference to the soil tests.

**Mr. Martel:** Well, as I have said in the House, I am absolutely convinced that the

soil tests were rigged. My information from the people who did some of the work was that when they did the first percolation test, the water would not go down. Consequently, they brought in a couple of loads of fill and drilled a 4-ft hole; and, of course, it went down immediately to the level of the clay and stayed there. That was apparently done by a reputable firm in Sudbury and got by the health unit, which disturbed me to no end, because the health unit was well aware that that wasn't good soil. That has always bothered me, along with all the rest of the problems which we are not going to discuss today. That shouldn't be overlooked, Mr. Minister, because I think that was very deliberate.

**Hon. Mr. Clement:** You and I have had some conversations of a general nature on this before; but going back in my memory right now, I cannot recall anything in those investigators' reports that caught my attention, other than your comments, which we have discussed in the past.

**Mr. Martel:** As I say, I am absolutely convinced that was deliberate. There is no way that could—

**Hon. Mr. Clement:** Can you drop me a note on that and give some names and—yes we'll look into it because the Ministry of Health may well be involved. I haven't followed it up, I haven't done anything; I didn't realize—

**Mr. Martel:** It will take a battery of lawyers to follow up the actions of these individuals.

**Mr. Chairman:** Well, the minister has invited you, Mr. Martel, to—

**Mr. Martel:** Yes, I've made a note of it, Mr. Chairman.

I think we could just move on to another topic then, just briefly, and again dealing with some of the same principles. What happens out in a large part of my riding, Valley East—your people of course investigated at the beginning; Mr. Graham Adams, I guess—when a builder gives his word to a community that he in fact is solely responsible for the condition of the houses and he guarantees the community at an open council meeting that he is going to make the repairs. A year goes by and he simply has not moved in to make those repairs.

I'm talking particularly about Trasco Real Estate and one Bev Shouldice, brother to one Ross Shouldice. I submitted pictures to your office in late October with 12 square feet



of brick that had fallen out and had just missed a little gaffer who had put his finger up to them. In fact, the boy was four years old and 12 square feet of brick fell out of the wall. If it had struck the kid it would have killed him. I haven't got an acknowledgment for that letter yet and I've been sitting on it for some time.

But what bothers me is that this man, at an open council meeting with all of the ratepayers there, promised to do the work. He promised to do the work and in fact has never done it. The only recourse that they tell me they have is to refuse to allow him to build in the community again.

But that doesn't repair the houses in this instance. And that's why I sent you the picture, where a little tyke puts his finger on the brick and half a wall falls out. Is there any way we can force him to come back—to come back and repair that mess? He's doing building in all the adjacent communities now.

**Hon. Mr. Clement:** I have a hard time taking off my hat as a minister and putting on my hat as a lawyer, but I would say what consideration flowed between the community and the builder for that undertaking—to me it just doesn't mean anything, it is valueless.

In most municipalities they enter into a subdividers' agreement and site plan; but that only deals with the roads, the drains, the curbs, the sidewalks and this sort of thing; it has nothing to do with the quality of the house. Then the customer or the purchaser of the home enters into an agreement to have a house constructed per a certain type—and the warranties that flow from the builder to the owner are contained in that document.

It's an individual thing as to the quality of the house; but it's a community thing as to the quality of the streets and the curbs and the parks and this sort of thing. I don't see how a community could enforce—

**Mr. Martel:** But they didn't—like in the other deal Mr. Minister, they did not get a copy of this material until they completed—these were the self-help homes as well.

**Hon. Mr. Clement:** Do they not have a municipal building inspector?

**Mr. Martel:** Yes, they fired him recently, because he was playing games. He didn't see any of this; and it went on and they fired him just within the last month. In fact, Don Taylor from Municipal Affairs suggested 1½ years ago that they should have fired him,

not just recently. But I have got a whole raft of these people who didn't realize they didn't get their deed and all the titles until they had done their portion of the contract, which in these self-help homes said they had to do this, this and this. They didn't even have a copy of it, so they didn't even know what their obligations were.

We started to get some of those through the efforts of Graham Adams, and he did a first rate job on it. And this is why, of course, the minister knows I've been pushing building codes ever since. When you have half a wall falling out—these are just imitation walls—some kids can get killed. Somebody is going to get seriously injured. In this instant it was very fortunate that the brick missed the kid, but it's going to happen Mr. Minister—and the community, as I understand it, has no recourse.

**Hon. Mr. Clement:** The community has no recourse if they don't have a building code to enforce. This points out the necessity of having a province-wide building code. Most communities, I think I can safely say all organized communities in Ontario—except the one you just described—have a municipal building inspector and municipal building codes and that's the point in having them.

**Mr. Martel:** That is right. This was his whole function; that is why Don Taylor indicated they should have fired him a long time ago, because he was simply just turning his head the other way.

**Hon. Mr. Clement:** He certainly wasn't doing his job.

**Mr. Martel:** But we are caught now.

**Hon. Mr. Clement:** I don't know, they'd have to get a legal opinion, and take it to counsel as a solicitor; but I don't think that promise made by the builder in front of council is worth anything.

**Mr. Martel:** Is that right? That's what I was afraid of.

**Mr. Chairman:** I might say, Mr. Martel, that we discussed this general problem under business practices, which was item 6 of vote 1302.

**Mr. Martel:** I thought it came under the registrar.

**Mr. Chairman:** We also discussed it under uniform building standards, which was item 6 of vote 1303.

**Mr. Martel:** It's almost impossible for me to be cut in half—and debating two bills in the House on second reading.

**Mr. Chairman:** I appreciate your problems Mr. Martel, and the chair wasn't looking for an apology.

**Mr. Martel:** No, fine. Okay I'll move on to another subject.

**Mr. Lawlor:** And put yourself back together again.

**Mr. Martel:** Right! Well, Solomon hasn't worked it out yet, how it can be done.

I want to talk about Elm St. Holdings, is it registered under this section? Elm St. Holdings, owned by Ross Shouldice.

**Hon. Mr. Clement:** If it is an Ontario company it would be chartered under our companies' division. I'm not familiar with it. Elm St.?

**Mr. Martel:** Holdings.

**Hon. Mr. Clement:** Holdings.

**Mr. Martel:** They are the people who—

**Hon. Mr. Clement:** I'll send you a copy of its most recent returns.

**Mr. Martel:** When Trasco Real Estate couldn't get moneys to support its bid to Ontario Housing Corp., couldn't guarantee the money, Ross Shouldice reactivated Elm Street Holdings. Elm Street Holdings came down to Toronto and signed some contracts to do two projects for the Ontario Housing Corp. Of course Shouldice never honoured—as I understand it from the enquiry in the Soo, he collected the money from OHC but didn't pay the subcontractors.

My concern in this—and I've been trying to get it both through your department, I raised the question in the House one day, and through the minister responsible for housing—was how in God's name did this company get approval in the first place under anyone? Because five months previously I had requested the government to conduct an investigation into one Ross A. Shouldice. This is the same Ross A. Shouldice, only with yet another company, Elm St. Holdings, which had originally belonged to Cambrian Real Estate.

I can't keep up with it, Mr. Minister, and yet I can't understand why the government—and that's why I raised the question of the registry with you—would not have twigged to him making application; if that's the way

it's done, I'm not a lawyer, you'll have to forgive me.

**Hon. Mr. Clement:** I'm not familiar with that particular company. I know it's a term of any public housing that the builder be bonded for a performance bond, and if there is any default on the part of the builder presumably the bonding company will be called upon to make good. Maybe it's in litigation right now; I don't know. It is easy to say that they should be called on—I've been involved in these things too—to make good their bond; and then you find you are in litigation to compel payment under the bond. It's just speculation on my part. I just don't know. I will find out who Elm Street Holdings are.

**Mr. Martel:** Oh, I know who it is—Ross Shouldice.

**Hon. Mr. Clement:** But I don't know whether it is registered as a broker—

**Mr. Martel:** Yes, well I don't know either.

**Hon. Mr. Clement:** —or whether it is incorporated as a company, or whether it is a partnership or sole proprietorship—I just don't know.

**Mr. Martel:** The thing that amazed me is how the government got stuck with this one. Starting in November of 1971 I was raising Cain about this whole pack of rats, and yet in March of 1972 they can come to Toronto and have this company reactivated for bonding purposes; and six months later you've got Ontario Housing into a hassle with \$159,000 not being paid to the subcontractors. Somebody had to allow him back into the ball park, I'm sure through Elm St. Holdings, whoever they are registered with.

**Hon. Mr. Clement:** There are three or four questions you raise. Whether any of the builders got stuck under the Mechanics' Lien Act—of course, they could only look to Ontario Housing or the owner for certain percentage. How, if they were defunct, how could they get bonding? I just don't know, no.

**Mr. Martel:** It just amazes me that Ontario Housing gave those two contracts to that outfit, it really does.

**Hon. Mr. Clement:** Presumably, the crucial thing would be the bonding.

**Mr. Martel:** Oh, yes, but they reactivated Elm St. Holdings, which used to belong to Moreau and Wickett. I just don't know—



**Hon. Mr. Clement:** I will look it up—is it a limited company, as far as you are aware?

**Mr. Martel:** As far as I am aware, yes.

**Hon. Mr. Clement:** All I can tell you at this point is that I'll look it up and find out who the principles were when they were incorporated.

**Mr. Martel:** I'll tell you who was in Toronto with them. When Ross Shouldice was here getting this thing reactivated, with him was none other than Mr. Reg. Moreau, according to the record, who was being investigated then for some five months by your department over the Cambrian-Rockview fiasco.

You know, Mr. Minister, the whole bag really bothers me.

**Hon. Mr. Clement:** We investigated a good number of people in connection with the Real Estate and Business Brokers Act, and while they're under investigation and so on, we don't—maybe we should—notify other ministries: "Take notice, we're investigating the following"; because very often our investigations are not fruitful and the target of that investigation is completely exonerated.

**Mr. Martel:** It's a difficult position, because you don't know then who to—

**Mr. Chairman:** The minister, Mr. Martel, has agreed to look into that for you.

**Mr. Martel:** The minister raised an interesting point. My concern was why one ministry wouldn't advise another ministry, but he makes the valid point, I think, that he might be moving in on someone who really the investigation had no—

**Mr. Chairman:** Are there any further questions on real property registration?

**Mr. Havrot:** Yes, Mr. Chairman, I asked this question earlier, regarding the reason for the increase of \$1,450,000 over last year's estimates. I was just wondering what the reason for this was?

**Hon. Mr. Clement:** Yes. I can give you the breakdown on that, Mr. Havrot. By the way, the registrations have increased about 12 per cent, as I understand it, allowing for work going to the registry office. In 1970, in round figures, there were 780,000 registrations. In 1971, 911,000, and in 1972 there were 1,023,000 registrations. So I suspect that would be an increase over last year of about 12 per cent, something like that.

The complement has increased—this is in registry offices and in land titles offices across the province—from 626 to 694, roughly 68 individuals. Salaries in that increase take up \$1,249,200; employee benefits \$130,000; transportation and telephone and this sort of thing, \$15,100; services \$20,200; supplies and equipment \$35,400; giving an increase of \$1,450,000.

**Mr. Chairman:** Any further questions on that?

**Mr. Singer:** Yes.

**Mr. Chairman:** Mr. Singer?

**Mr. Singer:** Could I now ask Mr. Priddle what kind of progress you're making toward getting everything under the land titles system?

**Mr. Priddle:** Mr. Chairman, we are treading cautiously, shall we say, because on the basis of the Law Reform Commission's report there was, at the time it did its study, something in excess of 2,200,000 parcels under the registry system for which the titles had to be converted. And that, in today's terms, means meticulous title search of every one of those titles, so we're going to have to come up with a quicker way of dealing with the problem.

It has two aspects—the quality of the title and the quantity, if you will. We have to define the boundaries adequately. We are looking into work that has already been done by other ministries, including the assessment mapping by the assessment division of the Ministry of Revenue. What was the photogrammetric section of the former Department of Highways, now Ministry of Transportation and Communications, has done a great deal of aerial photography and so on; and Ontario Hydro, again, has done a great deal of work on orthophotos, which is sort of a scale-corrected photogrammetric survey.

We have, in addition, been in contact with the federal government and I think we have some good contacts there. We have a little bit of money—I think there's \$85,000 in the vote for titles and legal services—for consulting fees this year, primarily to buy consulting services from the management services division of what is now the Ministry of Government Services.

So we hope to be in a much better position a few months from now to tell the government and our ministry initially how much money we think it should take to get into this conversion on a massive scale. Now,



very innocuously, last year we had some amendments in Bills 209 and 210 of the 1972 session, and one of these will allow the administration, on its own initiative and without waiting for applications from individual owners, to convert titles from the registry system to the land titles system. That, coupled with some of these other programmes, including our own programme of registrars' compiled plans under the registry system, may very well get us into conversion in a small way, and give us some reliable figures to go on for this year.

The commission's report, most definitely has not been neglected or shelved, as far as I am concerned. I think we're all keen on getting a good system in being. I might say, as a matter of interest, Prince Edward Island was taking credit, shall we say, for a computerized land registration system, and Mr. Hadfield, the director of our legal surveys branch, and I went to Charlottetown a year ago to see what they had. We thought, without being too severe on them, that that kind of a system wouldn't be much of an improvement in Ontario. I hear they've since decided against proclaiming their Land Titles Act and they've pulled the system out of the computer and they're going to come to us for advice.

**Mr. Singer:** What year can we expect the millenium?

**Mr. Priddle:** It's a very costly programme, in today's terms. I think we will be well into it in five years. I don't know how long it will take to finish the programme.

**Mr. Singer:** About this time in these estimates I quote Mr. Dodds. I don't know if any of you gentlemen knew Mr. Dodds—

**Hon. Mr. Clement:** Yes, I knew him.

**Mr. Singer:** —who was the assistant registrar in the city of Toronto for many years and who knew more about registry office titles in the city of Toronto than anybody before or since. He once told me that if he was given a dollar for every title in that registry office he would guarantee them all and make himself a millionaire. His theory was—and it came after many, many years of experience—that well over 90 per cent, perhaps 95 per cent, of the titles in the city of Toronto registry office, which has the greatest concentration of titles, are good ones.

**Hon. Mr. Clement:** We are exploring that, if you want to be privy. We're exploring the possibility, in effect, of saying, everything's

okay, without prejudice, to those who can come along and make a case, and if there has been an error then, presumably, they would be compensated out of the fund.

**Mr. Singer:** I think that has great merit. Mr. Dodds had no particular axe to grind. He was a help to many generations of law students along the way.

**Hon. Mr. Clement:** Oh, he sure was.

**Mr. Lawlor:** How do you explain the fact that every time I have anything to do with them there is something wrong?

**Hon. Mr. Clement:** This is one of the branches of the ministry that is extremely lucrative. We don't talk in terms of revenues but we generated last year, 1972-1973 about \$12,700,000 plus the Land Transfer Tax which is about another \$25 million. We don't talk about revenues in these estimates but it certainly is a very beneficial activity for the province to engage in.

**Mr. Singer:** Because the more quickly you move into this the greater service you are going to be doing to the community. I think, and continue to say, that the fees charged by a series of lawyers one after the other, searching titles, is unfair. If I have searched a title for a client and then next week the property is sold again, the second lawyer will go and search the title again, and charge an equal fee for covering the same work.

Even more obvious, if you get a complicated series of mortgage transactions you can have four or five people on the title at the same time, all doing exactly the same work and all of them charging the tariff fee. All of which is eventually reflected in the end price to the purchaser or to the tenant or to whoever it is.

Many lawyers don't like to hear me say this, but I have said it for a long time and I think it is wrong. I think the quicker that system can be changed the greater the service it is going to be. I think legal fees in connection with title certification are completely out of line. They are not out of line, I suppose, with the work that has to be done and the responsibility that has to be taken.

But you have got to attack it from its base. That much work doesn't have to be done that frequently. When you get five lawyers on the same title at the same time, all charging tariff, who is going to pay—the public is going to pay and it isn't fair.

**Hon. Mr. Clement:** Well, if the programme to convert it over—and I will just pick figures

from the air—cost \$20 million, for example, and you have got that on the one hand—and if you assumed all the risk of all the titles in the province and you did a proper sampling in advance of 2,500, or some mythical figure, and you found out that one in 100 was bad—

**Mr. Singer:** That was Mr. Dodd's theory, too.

**Hon. Mr. Clement:** Yes. If you went into a programme like that and you got stuck with \$8 million worth of losses, first, mathematically you are ahead, and secondly the time element is speeded up. And we have had some discussions with the real property section of the Canadian Bar Association along these lines. And it is something we are taking a look at because to do it all, to physically check every title in this province, I think the new registrations daily are going to exceed what you are going to cover daily.

**Mr. Chairman:** Any further questions, Mr. Singer?

**Mr. Singer:** Yes, another point. Insofar as staff in these registry offices and land titles office are concerned. When you are making your promotions—and I have noticed this has come about in the last few years—are you promoting by and large from within the system? Or does there occasionally continue to appear someone who seems to be a nice citizen of the community who suddenly descends as the registrar of deeds or the master of titles or the land registrar?

**Hon. Mr. Clement:** Up to the deputy registrar level they are now within the civil service.

**Mr. Singer:** Why do you stop there? To go back to Mr. Dodds, as I say Mr. Dodds knew more about titles probably than anybody in the province before or since. And he never got to be registrar, because he was a good conscientious civil servant and he just never happened to be an identified politician.

**Hon. Mr. Clement:** I should say up to and including the deputy registrar. We have had possibly four vacancies in the last eight months and we have advertised them all. We have advertised them publicly and within the civil service and I think—we have advertised four was it—and invariably they are from within the service, not necessarily from the same registry office.

**Mr. Singer:** Oh, I don't care. If you have a pool you train them in Toronto and send them around—

**Mr. Lawlor:** This has happened, a person from Toronto has gone out to—

**Mr. Priddle:** Excuse me, Mr. Lawlor. If I just might add to your answer to Mr. Singer, sir. Within the last few months we have advertised the positions for land registrars in the Toronto office, Newmarket, Windsor and Woodstock. And I think each of the four was an internal promotion. And Cochranee too. But there were several outside applicants.

**Mr. Singer:** And what sort of qualifications are you looking for?

**Mr. Priddle:** We are looking for administrative ability, proven administrative ability, plus some acquaintance with the kind of work that it is. Some sort of background experience.

**Mr. Singer:** And how many legally trained people have you got within this?

**Mr. Priddle:** How many lawyers, do you mean?

**Mr. Singer:** Yes.

**Mr. Priddle:** We have one at Hamilton, one at Guelph, we had one in Windsor, we have one at Peterborough. I think that is all at the present time.

**Mr. Singer:** That is all. Well let me tell my other old horror story. It's about a young man who was in the land titles office—and some of the people here know who I am talking about—at Toronto. He was recognized as having outstanding ability, the government of Ontario paid for his fees through law school.

He then came back and the civil service system classified him as a something or other down at the bottom of the ladder even though he had all these previous years of experience and he now had a professional qualification. He hung around for a few months and then went to London where he is associated with one of the largest real estate legal firms there and he is probably making 10 times what he would ever have made with the government, but it is a pity that—and this happened some years ago—it is a pity that that kind of talent was lost.

I am wondering if there are any steps that you are taking to encourage students, law students, or young lawyers to get into this registry system because I think their training would be invaluable.

**Hon. Mr. Clement:** That would certainly be something to be desired. From our advertise-



ments, and I am only going by memory, very few lawyers have applied. While the remuneration now is much higher than it was a few years ago, compared to private practice there are just too many financial sacrifices that a man has to make. Now, there are exceptions to that.

**Mr. Singer:** Why don't you seek some out at the student level perhaps and encourage them and take them into—do you take students into your registry offices in the summer?

**Mr. Priddle:** Yes.

**Mr. Singer:** Many?

**Mr. Priddle:** Quite a few. A total of in the order of 70 last year and about 80 this year. That is among the 60 odd offices.

**Mr. Singer:** And you follow up or is this just a way of spending a few months and earning a few dollars? Do you encourage them to stay on with the system, offer them some kind of bursary or something to go through law school?

**Mr. Priddle:** Quite often they will come back for a second or third year. A few of them stay on—

**Mr. Singer:** And then they are lost?

**Mr. Priddle:** But most of them go on to university.

**Hon. Mr. Clement:** They are pretty hungry when they finish.

**Mr. Singer:** Yes, but there are such a great number being turned out of the law schools that they are going to find increasing difficulty in getting themselves placed in private practice. And I think this might be well explored at the present time with the younger people now.

**Mr. Lawlor:** I hope they are not just handing out books, are some of them abstracting and—

**Mr. Priddle:** More so if they come back for a second and third year.

**Mr. Lawlor:** They try to work themselves in to—

**Mr. Priddle:** It depends on the office, too.

**Mr. Chairman:** Further questions on item 2?

**Mr. Martel:** Yes, I have one.

**Mr. Chairman:** Mr. Martel?

**Mr. Martel:** Mr. Minister, I have a funny case. I took it to the wrong minister, but your department was involved in it. I still don't agree with your ministry, and I still don't agree with the Attorney General (Mr. Bales) on his solution to this problem. I just put it forward. I will read a portion of a letter, and it is written to the registrar of deeds in the court house in Sudbury. And it says:

I am a solicitor for Armand and Jean Lachance who recently purchased from one Norma Emmaline Einst, of Brampton, the following lands—

And I won't give the description, it doesn't matter.

My search revealed at the time that the property was in fact registered to Mrs. Crampton's name.

Subsequent to my client's taking possession he received from Marathon Realty Co. Ltd a document, a copy of which is enclosed.

On receipt of this letter I reattended the registry office to make a search and could not find in the register any record of the registration of the deed from Crampton to the CPR, although the deed was, in fact, registered as number 315 on December 23, 1913. As a result of purchasing this property my client has expended the following amounts of money: \$1,357. He doesn't own the land. He has had to pay for a solicitor. He has had to pay surveyors. He has had to pay for the land. He owns nothing today.

Now because this was never indicated in any way, shape or form in the land registry office—the solicitor in this instance, both before and after the purchase had checked it out; so had the land surveyor—as far as I'm concerned, a mistake was made. Maybe I'm wrong, but a mistake was made in that the entry was never entered.

Why in God's name should my constituent now have, according to the Attorney General, to take this matter to the courts under the Proceedings Against the Crown Act?

First of all, he's not a wealthy man. Second, it was not the solicitor's mistake, nor his nor the land surveyor's. It was made by someone within government, if I'm correct. Why should this man not be reimbursed by the Crown? Why should he have to fight it out in court with the possibility of an added expense and the possibility of losing?



**Hon. Mr. Clement:** The document was registered, is that what you're telling us?

**Mr. Martel:** It was never registered, according to my knowledge.

**Mr. Singer:** He said it was not shown in the abstract book.

**Mr. Martel:** Not shown in the abstract book.

**Hon. Mr. Clement:** Was it a residence?

**Mr. Martel:** A piece of land.

**Hon. Mr. Clement:** Just a piece of land.

**Mr. Martel:** Just a piece of vacant land the CPR had purchased in 1913. It was never registered. My constituent is out this money. He might now have the \$1,000 back from the family but he's still out \$357.00 or \$367.00 legal fees and surveyor's fees. In my opinion, the mistake was probably made in the land registry office X-number of years ago. Not deliberately, or anything, but nevertheless it was never entered.

**Hon. Mr. Clement:** It appears that the deed was registered but never entered, is this the gist of it?

**Mr. Martel:** Yes, it was never entered.

**Hon. Mr. Clement:** Back in 19?

**Mr. Martel:** Thirteen.

**Hon. Mr. Clement:** Thirteen.

**Mr. Martel:** And why should not my constituent now have to take this matter to court? Why, after the mistake was made, if there was a mistake made. I don't know, I'm not a lawyer. I just put the proposition to you. If a mistake was made and it should have been registered or put in the abstract book so that any lawyer, protecting the interests of his client, could follow through, then why should the Crown not reimburse the man without him having to take it to court?

**Hon. Mr. Clement:** Well, it's awfully difficult, of course, for the lawyer to spot an instrument that's not entered in the book.

**Mr. Singer:** Very few do.

**Hon. Mr. Clement:** It wouldn't be too lucky on that score.

**An hon. member:** I don't know.

**Mr. Martel:** But Mr. Blossom, I guess, is from your department? He's indicated, "Well,

you could take it to court"; or "the Attorney General says take it to court"—but why should my constituent have to take it to court? He's not a wealthy man, an ordinary worker. He followed everything; hired a solicitor, surveyor, the whole business. Why should he be out of pocket now? He doesn't even have the land.

**Hon. Mr. Clement:** If it was under the land titles system, of course, things would be different. Under the registry office system there's no indemnity fund available for someone who appears to have suffered a wrong as your constituent has. If he starts proceedings against the Crown he may not win. He may not even end up in a courtroom.

**Mr. Martel:** That's right. And he's out there again, you see. This is what I'm—

**Hon. Mr. Clement:** I can't buy in that ministry, but once they see that he's serious about proceeding against them there is always the possibility that they would settle.

Why should he be out that money? I can't tell you why he should be out that money. That's the only instance I've ever heard of them not entering it into the book before they release the document. I've never run across that before.

**Mr. Martel:** But surely, the Crown, through an order in council if necessary, could pay him, couldn't they?

**Mr. Singer:** When is the registration complete? When it is stamped by the register or when it's entered in the abstract book, or both?

**Hon. Mr. Clement:** Gee, I don't know.

**Mr. Priddle:** The Act says the registration is deemed to have taken place from the time the document is accepted by the registrar with his registration fee.

**Mr. Singer:** What about the theory of notice?

**Mr. Priddle:** Then there's a statutory obligation on the registrar to do certain things, one of which is to record in the abstract index.

**Mr. Singer:** Subsequent purchasers for value certainly wouldn't have had notice.

**Hon. Mr. Clement:** No way.

**Mr. Singer:** Nor would they be deemed to have had notice if it wasn't in the abstract book.

**Mr. Chairman:** I don't think we'll solve the legal niceties of that particular problem this afternoon.

**Hon. Mr. Clement:** Boy, that's a toughie.

**Mr. Martel:** My only concern here is that the guy can't even get Legal Aid. He could take a chance with Legal Aid, but he owns his own home so he can't get Legal Aid.

**Mr. Singer:** You're getting a message there.

**Mr. Martel:** I'm getting what?

**Mr. Singer:** I think you are getting a message.

**Mr. Martel:** Well, no; I'm not receiving it very well—by design.

**Mr. Chairman:** Any further questions on item 2?

**Mr. Martel:** Mr. Chairman, before we leave this, are you going to leave this up in the air? Certainly my constituent has some rights in this bloody province.

**Mr. Chairman:** I'm not questioning the rights of the citizen. But I don't think we are going to assess or determine legal liabilities under this item.

**Mr. Martel:** I've been on this since Feb. 28, 1973, and this is now May 22. Except for writing a lot of letters and making a number of phone calls, my constituent is no better off today than he was back on Feb. 28 when I got involved; or on Oct. 26, 1972, when the solicitor went directly to Mr. Lefebvre, the registrar of deeds in Sudbury. That's the better part of a half a year. I think we can afford the man five minutes.

**Hon. Mr. Clement:** If I may be so bold, I would suggest this, that the man should perhaps petition to cabinet and see what kind of reaction he gets there. If, for one reason or another, cabinet takes no action or action not acceptable to your constituent, then, without being facetious, I think the only thing that is available to him is to take his action against the Crown under that particular statute and bring the thing to a head one way or the other. You have raised many questions. You have raised the question of legal title in a question going back 40 years. Is the Crown bound after this time? I take it it only came to his attention recently. Is the Crown bound by the passage of 60 years? I just don't know. But I think from the practicalities that's the route that he would have to go.

**Mr. Martel:** My only concern, when we start to get into the amount of money, is, what it could in the long haul cost the man and cost the Crown. If there was some way—and this is a new one—that we could petition the cabinet, then that might resolve it. What it could mean in terms of solicitor's fees and the hearings and so on that will be necessary, would be far more.

**Hon. Mr. Clement:** And there wouldn't be much precedent to assist the solicitor having the carriage of the action, I might suggest.

**Mr. Martel:** Yes. I just think it's odd. It's a lot of money for nothing, you know, for the sake of \$357. Although there is a precedent the other way, I don't think you will come across this case very often.

**Hon. Mr. Clement:** I never heard of it before.

**Mr. Chairman:** I think the message is, Mr. Martel, if you rattle a few sabres, you might get a settlement. Are there any further questions?

**Hon. Mr. Clement:** Don't construe that as any undertaking on my part. I live here.

**Mr. Martel:** I thought you would undertake that, being a nice fellow.

**Hon. Mr. Clement:** Very often you will find that something was indexed in another book, particularly an old document. Most solicitors are only bound to go back 40 years to a clear title and that would only take them back to the early Thirties.

**Mr. Martel:** He searched right back but he still couldn't find it. It's not there because he went back the second time to see if he were responsible.

**Hon. Mr. Clement:** I'll bet he did. I know I would.

**Mr. Martel:** And it's not there.

**Mr. Chairman:** Mr. Lawlor.

**Mr. Lawlor:** There is a great loss of documents, I think, in the registry system. They seem to get misplaced and are totally missing. We have asked for them and they are not available, particularly a number of years ago.

Anyway, are you in any way involved with the execution aspects of the registry system, where, on seeking to effectuate registration, you have an enormous blockade and difficulty going through and getting these final releases

from the sheriff, or do you consider that someone else's responsibility?

**Hon. Mr. Clement:** I have nothing to do with getting certificates from the sheriff. But any backlog of documents comes within my purview.

**Mr. Lawlor:** It is intimately tied in with your backlogging.

**Hon. Mr. Clement:** Very much so.

**Mr. Lawlor:** Because on occasions on the 15th and the end of the month at every registry office I know of—and that is the Brampton certainly, the Newmarket, the Toronto registry office—there are enormous line-ups. People are almost frenzied. It looks like the floor of the bull market, the stock exchange, with people climbing all over one another. And the real bugbear there is the hold up on getting executions through.

The system doesn't work very well. It is an automated system up to a point, where a lady sits there and takes the teletyping coming through from the sheriff's office in order to get a clear certificate. No one, of course, will proceed with a transaction unless they can get a clear certificate. I don't know what they do at 4:30 in the afternoon on those days when they are 500 behind.

The only thing they can possibly do is close their deal the next following day, which is of great inconvenience to everybody concerned.

**Hon. Mr. Clement:** Mr. Priddle has some comments on this. We are all aware of some of the problems that you run into, mainly in the larger centres.

**Mr. Priddle:** I have had some discussions and have a proposal directed to the Attorney General's ministry to try to solve this very problem. From my point of view when we extend the land titles system we have to duplicate the sheriff's file of writs of executions, and I think there must be a better answer. And the sheriff himself, Phil Ambrose here, has some ideas of his own.

I think I would be a little premature to say what kind of action we are about to take, but we're well aware of the problem and I hope that some action will be taken fairly soon.

**Mr. Lawlor:** I see signs up all over the registry office now seeking to encourage solicitors to search one week ahead of time. And there is a special service provided with respect to bringing them up to date on the very day in question, the day on which you are closing.

**Hon. Mr. Clement:** That's terrible.

**Mr. Lawlor:** But I have no idea whether that's—

**Mr. Priddle:** They have made some changes in the sheriff's office in Toronto to improve the service but I'm not familiar with the details.

I might say, Mr. Minister and Mr. Lawlor, that a good deal of our problem results from everybody seeming to want to move on the first of May or Saturday afternoon or something, so we get definite peaks in the middle and end of the month, and Friday afternoon, and this sort of thing. And if the workload could be spread more evenly throughout the week it would help all round—our offices and the sheriff's offices.

**Hon. Mr. Clement:** You know that is just maddening. You want to deal or advance a half million dollars—or let's try \$50,000, in terms of Niagara Falls mortgages.

**Mr. Lawlor:** I'd say up in your area, I think.

**Hon. Mr. Clement:** There is really very little problem down in our area as far as the sheriff's certificates are concerned. And I have run into them over here and it really is frustrating because you're just taking, most of the time, one great big chance.

**Mr. Lawlor:** That's right.

**Hon. Mr. Clement:** And somebody's going to get hit one of these days and get hit really hard on a multi-million dollar mortgage.

**Mr. Lawlor:** The best thing is to stay out of it entirely.

**Hon. Mr. Clement:** They're having a problem. They are trying to face up to it.

**Mr. Singer:** I don't know how we are going to satisfy Mr. Priddle's thought that people should be trained to move on different days and hours. It's like trying to convince people not to take their cars downtown.

**Mr. Chairman:** Further questions? Item 2 carried?

Agreed.

On item 3. Legal surveys.

Any questions on item 3?

**Mr. Singer:** What is this vote?

**Hon. Mr. Clement:** Legal surveys?

**Mr. Singer:** Yes.



**Hon. Mr. Clement:** You mean to tell me you have practised law for 25 years and you don't know about legal survey plans?

**Mr. Singer:** Tell me about them.

**Hon. Mr. Clement:** I'm not even going to waste my time.

**Mr. Martel:** Do you want to give us the reason why?

Interjections by hon. members.

**Hon. Mr. Clement:** Mr. Priddle, tell Mr. Singer about the legal surveys. And you might tell me, too, at the same time.

**Mr. Priddle:** One of the branches of this division sir, is the legal surveys branch. And the responsibility of that branch is primarily to check all plans coming into the land titles system, whether they are subdivision plans or reference plans or condominium plans.

In addition, they check all the condominium plans throughout the province, and they make an inspection of the property in each case on a condominium to make sure that the building is substantially complete, before the declaration and description are allowed to be registered. They also check the plans of the first applications for transfer from registry to land titles, and all the plans under the Boundaries Act.

The staff is decentralized to quite an extent.

The main office is in Toronto, but we have branch offices now in London, Ottawa, Sudbury, Sault Ste. Marie, North Bay and one that serves the Parry Sound-Muskoka area. They do give a sort-of on-the-spot guidance to the land registrars as well as these other services, and I think our experience with them has been very good.

The standard of surveying generally in the last 10 years or so, since we have had regulations, has improved considerably. And we are now in the process of converting from a meticulous examination—sort of all the i's dotted and all the t's crossed, to what we call submission analysis. This involves looking for the major things that are wrong, rather than nitpicking as we have been in the past. Hopefully, this will allow us to examine a larger percentage of the plans entering the registry system, so that they may be used as a base for transfer to the land title system.

**Mr. Chairman:** Thank you, Mr. Priddle.

**Mr. Singer:** How many Ontario Land Surveyors do you employ in this branch?

**Mr. Priddle:** How many do we employ, sir?

**Mr. Singer:** Yes.

**Mr. Priddle:** I am not sure. It is in the order of 15; roughly that number.

**Mr. Singer:** In the order of 15. And they are reasonably distributed throughout the province?

**Mr. Priddle:** Reasonably well.

**Mr. Singer:** Why does your estimate run \$200,000 more?

**Mr. Priddle:** For one thing, Mr. Singer, there was a transfer, from what was called the programme administration group, of one survey technologist and two draftsmen, from last year to this. And in addition there has been, I think, modest increases in the staff there. I think two or three, perhaps. Three. And increase of three was allowed in the staff by Management Board last summer.

**Mr. Chairman:** Any further questions on item 3? Carried? Item 4, titles and legal services.

**Mr. Lawlor:** Mr. Chairman, a question on this. Is the minister—I don't know if it is really his responsibility, but I certainly think it's a nagging defect in the law as it presently stands. When a committee of adjustment grants the severance of property—this is the abutting lands business—and it is subsequently—either by way of an estate or by way of repurchase, or by way of redemption of the mortgage—or rather by foreclosure of a mortgage—comes back into the hands of the person who has already got the severance, they have to go back a second time to committee of adjustment to get a re-severance. In other words, what I am saying: Why isn't it law that once a severance is accomplished, it stays severed forever?

It is a kind of defect in your legislation, or in the legislation. I brought this matter before previous ministers in this department and I always get a kind of woebegone look. And they say: "But it is so simple a thing and it is so obviously beneficial a thing, that these flukes should be obviated from the law." But nobody ever does anything about it. Do you know about the little problem?

**Hon. Mr. Clement:** Yes, I have had it described to me and I have seen an instance in my own experience. You really have to try on your thinking cap, and wonder if you shouldn't sign that mortgage to a third party. And then if you do that maybe you are contrary to the spirit of the Act, trying to

have a trustee take title so you don't get it back in your own hands.

Again, this is another problem involving the Planning Act. That is one of the reasons I said earlier this afternoon I wish some time I had the responsibility for that particular piece of legislation. We have run into it in my area where a person has had a severance and has done nothing about it. And then they have decided to proceed three years later, and found that as of June 1970, I think it was, the Act was amended. And they have been compelled to go back through the same route once again. And you don't have the same values established before the same personnel on the committee of adjustment and you could end up not having the severance granted the second time around.

**Mr. Lawlor:** It falls basically in the Planning Act and Treasury and Intergovernmental Affairs, doesn't it?

**Hon. Mr. Clement:** Yes, really.

**Mr. Lawlor:** Could you then, because of this kind of a vote which seems to fall very much in the areas for which you are responsible through your policy minister—could you, when the five of you sit down together on occasion, make overtures in the direction of pointing out that that would probably be better administered within the justice arena, and in your hands, rather than out there in that huge emporium that no one can find their way through. It's a labyrinth, that particular cabinet post.

**Hon. Mr. Clement:** I think this particular problem you described, about lands coming back to the mortgagee will be looked after in the very near future. You see, it's the reconveyance, isn't it, that seems to cause the problem.

**Mr. Lawlor:** Yes. It is not necessarily, Mr. Minister, through holding a mortgage that it would occur. A man sells off one lot and retains another. He gets a severance in order to sell them, et cetera. But on some future occasion, for instance, he—

**Hon. Mr. Clement:** Gives it to his mother!

**Mr. Lawlor:** —bought it back again, it just goes to the next door—

**Hon. Mr. Clement:** Conveys it to his mother, and she dies and leaves it to him.

**Mr. Lawlor:** She leaves it to him and the minute it comes back—

**Hon. Mr. Clement:** I've run into that.

**Mr. Lawlor:** The minute it's into his hands he has to start all over again on something he thought he had already accomplished.

**Hon. Mr. Clement:** What happens with the family farm when the deceased leaves a corner to his oldest daughter? He dies and you have got to get a severance to convey it; the committee of adjustment doesn't want to and the will is being frustrated. I have run into that problem, too.

These are very, very complex problems. Everybody is there with clean hands and no one has taken any action to try and get it back. And yet it comes back. As I say, the man conveys it to his mother. She dies and he's the sole beneficiary. He gets it right back in his lap.

**Mr. Singer:** What happens if the testator conveys by his will? Is that a severance?

**Hon. Mr. Clement:** Well, the way I was taught law and the way I suspect that you were taught law, you talk about a severance when you get one joint tenant making a conveyance.

**Mr. Singer:** I had a big argument about that and eventually the other side gave up. I had conveyed after we got letters probate, didn't get any committee of adjustment, somebody came back and said that you need one. And I said that didn't fit within the words of the Planning Act.

**Mr. Chairman:** I think that was an exception under the—

**Mr. Singer:** I don't think it's excepted.

**Mr. Chairman:** Not an exception as such but I believe it was omitted in the—

**Mr. Singer:** Deliberately omitted? Yes. This other lawyer argued with me at great length but wasn't prepared to test it.

**Mr. Chairman:** Any further questions on item 4?

**Mr. Singer:** What goes on in this vote? What Mr. Lawlor has alluded to? What do we do under titles and legal services?

**Mr. Priddle:** Mr. Chairman, we're primarily concerned with the director of titles. He heads the legal advisory services for the complete division, and has specialized statutory functions under the Land Titles Act, as well as the Boundaries Act and the Certification of Titles Act. Under him are a small group of lawyers and a larger group of title searchers, title examiners, and so on.



**Mr. Singer:** And why does the requested amount equal almost double what the 1972-1973 estimates were?

**Mr. Priddle:** There was some increase in staff, and also staff transferred to this group. There is the \$85,000 that I mentioned before.

**Mr. Singer:** Oh, yes.

**Mr. Chairman:** Any questions on item 4? Carried. Item 5, personal property registration.

**Mr. Lawlor:** Well, the kind of question Mr. Singer asked previous to this as to how the swing over into the system. What's the situation on computerization here?

**Mr. Singer:** How well are our computers working?

**Mr. Lawlor:** I don't have anything to do with that. Do you? I stay away from that a mile.

**Mr. Singer:** I have got somebody in my office—

**Mr. Priddle:** Mr. Chairman, in answer to Mr. Lawlor's question. The Personal Property Security Act envisages the central registry for what we have been calling chattel mortgages and conditional sales contracts, and so on, and what will be called security agreements. The central registry is computerized and we are the best part of the way through a three-year transitional period which started in March 1971. We are planning to have the central registry operational as of April 1, 1974—so we are quite a way into it.

**Mr. Singer:** So at that point in time I would be able to find out if there is any security document registered against an automobile I want to purchase in Toronto?

**An hon. member:** That's the right answer.

You are choosing your words very carefully!

**Mr. Chairman:** Any questions on item 5?

**Mr. Lawlor:** Have you had any snags with the indexing?

**Mr. Priddle:** There have been problems for sure, but the programming for the storage of the information was all accomplished well in advance of March, 1971, when we started on it. As you are probably familiar now, the registration mechanics are that you put a sort of synopsis of the pertinent details of the security agreement on what is called the

financing statement, including the names of the parties and the identification of the collateral, and so on. Now that is the material which is fed into the computer file and which is accessible on the searches.

**Mr. Lawlor:** It is located in Toronto?

**Mr. Priddle:** Yes.

**Mr. Lawlor:** Have any of the registry offices elsewhere begun to feed into this system?

**Mr. Priddle:** Oh yes, definitely. They come from what were the county and district court clerks' offices. We are in the process there of transferring the function from the court offices to the land registry offices. Some of those transfers have been made just within the last month, and the others are scheduled pretty well—all but a very few of them where we have staff or building problems. Now they come into our central office in daily batches and are put onto the computer file.

**Mr. Lawlor:** I have only dealt with it once or twice myself. It seems to me inhibiting, and terribly difficult to feed in the information. In other words, the kind of sheets, the kinds of applications, if you will, the forms that you put in in order to do the search have to be handled, that is you have to have specific information of a very elaborate type on there, and you have to have it typed up in a certain way. Are you getting any complaints from the profession as to all these details?

**Mr. Priddle:** Well, I think we had some problems initially but the majority of the users of this system in terms of registration are not lawyers, they are the larger credit-granting agencies; the finance companies and the banks and so on. And many of those lenders have centralized their operations so that they will have perhaps one typing office in Toronto that serves all the branch offices.

Now, that is primarily because our method of input into the computer was the OCR—optical character recognition input device, and the machine was reading the typed page directly without any key-punch operation or anything else. It was looking at it and reading a line at a time sort of thing.

Now we are not convinced that we are going to stick with that but that is the reason for our demands, the sort of meticulous lining up of the lines and so on. It is a very good system. It has its drawbacks in some areas.



**Mr. Lawlor:** Yes, well you have to be highly rigid and terribly logical; and all these terrible things. I just have one other question.

**Mr. Chairman:** Any other questions on item 5?

Vote 1305 agreed to.

On vote 1306:

**Mr. Chairman:** Vote 1306, registrar general.

**Mr. Lawlor:** Oh, just one other question, Mr. Chairman, on this thing, just briefly on it. If the computer misfiles, again there is no form of recompense, as Mr. Macklin had?

**Mr. Priddle:** On this? We have a personal property security assurance fund.

**Mr. Lawlor:** You have an assurance fund there?

**Mr. Priddle:** That is right. At the moment, 20 cents out of each registration fee is going into that assurance fund.

**Mr. Lawlor:** How much is that fund at the present time? How long has it been in existence?

**Mr. Priddle:** Just over a year.

**Mr. Lawlor:** A year?

**Mr. Priddle:** At the end of the calendar year—we'll say at the beginning of January, 1973, the fund had in it \$240,000.

**Mr. Singer:** And you have been collecting it over how long a period?

**Mr. Priddle:** That is about a year and seven months, I think. I may be a little bit wrong in my estimate of the year, Mr. Lawlor, it may be more like two years.

**Mr. Lawlor:** I see.

**Mr. Priddle:** Because we had a part year. At the end of 1971, on a part-year basis we had \$98,000 in the fund and the payments into the fund in 1972 were in excess of \$142,000 so the fund is now in the order of \$240,000.

**Mr. Lawlor:** Previously you had no fund at all?

**Mr. Priddle:** That is right, we started it from scratch.

**Mr. Lawlor:** So it was up to the solicitor to go to the desk and look through those interminable books—

**Hon. Mr. Clement:** Hence John Brown!

**Mr. Priddle:** And this guarantees that the system has not made a mistake.

**Mr. Lawlor:** Yes. Good. Okay.

**Mr. Chairman:** Registrar General programme, item 1, registrar general.

**Mr. Lawlor:** I have a few remarks about the registrar general. First of all I have a personal beef. Is the registrar general around?

**Hon. Mr. Clement:** I am the registrar general.

**Mr. Lawlor:** You are the registrar general? Well, it is a personal beef against you.

**Hon. Mr. Clement:** Oh well, take it out against the deputy registrar general. He's here, Mr. Humphries. If it had been a compliment I would gladly have taken the kudos.

**Mr. Lawlor:** We'll get back on this competition bill.

**Mr. Singer:** Competition bill?

**Mr. Lawlor:** Yes, we've agreed to it. It's a fiat.

**Mr. Singer:** Oh, have you?

**Mr. Lawlor:** The situation is I've been personally agreed.

**Mr. Chairman:** What have we agreed to?

**Mr. Singer:** To come back on the competition bill at the end?

**Hon. Mr. Clement:** I thought that was Friday.

**Mr. Chairman:** It will be on the registrar general's vote.

**Mr. Lawlor:** Don't pull my leg.

**Hon. Mr. Clement:** You said the deal was off on Friday.

**Mr. Lawlor:** Oh, not the whole deal. It was only the Friday deal. The Friday deal was a special matter.

**An hon. member:** The committee makes no deals.

**Mr. Chairman:** Well, if we have got to come back tonight, why don't we adjourn now and come back at 8 o'clock?

**Mr. Lawlor:** I can get my question over with quickly.

**Mr. Chairman:** We can complete this vote then. There is just one item on this vote.

**Mr. Lawlor:** I meant to bring the file. I will present it to you if you wish to see it.

It has to do with a constituent who phoned and wanted a certain kind of certificate. It was a certificate obtained in Nova Scotia, or some place like, on which the registrar general's office wanted supplementary details. I sought to obtain those supplementary details and supply them at a later time.

Then, I got a call from a constituent and she said to me: "My, you're slow, Mr. Lawlor. What's wrong with you?"

I said: "Well, I'm doing the best I can under very adverse circumstances. After all, I'm dealing with the registrar general's office, you know, and that's not the easiest thing in the world, apparently, to get through."

She said: "Well, let me tell you this, Mr. Lawlor. Mr. Ellis Morningstar doing the same thing for my sister down Welland way got that thing through in 24 hours."

Well, I wondered what kind of gross discrimination this could be. It just about turned my hair. As a matter of fact, she rang off and apparently went to see Mr. Ellis Morningstar and got everything done rather quickly.

I find that very distasteful and I have been keeping it in my craw for a number of months now. What the hell goes on in terms of getting through! Does the member get more discriminating treatment than another when we make application for these things?

Apparently he didn't have to jump through hoops. I'd like to see Ellis try it. Apparently he didn't have to go back to Nova Scotia. What's your policy in the department?

**Mr. H. F. C. Humphries** (Deputy Registrar General): To each his own.

**Mr. Lawlor:** To each his own.

**Hon. Mr. Clement:** Well, I'll let Mr. Humphries answer. I can assure you there's no discrimination one way or the other, regardless of who the member is that makes the initial inquiry.

**Mr. Lawlor:** I'd like to think so.

**Hon. Mr. Clement:** As a matter of fact, in the entire time I've been in the ministry I don't recollect ever having any complaint about the workings of the branch. I just don't recollect any. Mr. Humphries, what comment would you like to make?

**Mr. Humphries:** Mr. Minister, my only comment on this is that we've always taken the attitude that we're there to give the best possible service to everyone. I can assure Mr. Lawlor that we do not discriminate or even actually consider from whom the request comes.

Mr. Pike here has a favourite expression. When we get complaints from the ordinary public, the ordinary public will often say: "Well, if I go to my minister I know I'll get this done right away." His reply—I can't give the exact wording here—amounts to the fact that it doesn't matter if the rear is out of your pants you'll get the same service as the minister will get.

After all, we're dealing with individuals; and each individual has his own particular problem.

**Mr. Chairman:** I hope you find that comforting, Mr. Lawlor.

**Mr. Lawlor:** I beg your pardon?

**Mr. Chairman:** I trust you will find that comforting.

**Mr. Lawlor:** I do. It really solves all those embarrassing rules.

**Mr. Chairman:** Any further questions?

**Mr. Singer:** I have one short question. Do you have a standby service at night-time, weekends, and so forth?

**Mr. Humphries:** No, we do not. Our policy has been for quite a number of years now to handle all applications on a block system. It doesn't matter whether the application comes from the city of Toronto or whether the individual lives in Winnipeg or California. We handle all applications, from 2,000 per day, on the block system. We endeavour to process the applications through in that manner. It would be impossible otherwise.

**Mr. Singer:** There's no kind of an emergency service?

**Mr. Humphries:** No, there is not. In fact, we haven't been actually faced with the problem of an emergency issuance of a certificate.

**Mr. Singer:** I periodically get these kinds of calls relating to passports in which they have emergency service though it is rather hard to find. You can find it if you dig. Somewhere along the line I might have thought that somebody might need a birth

certificate quickly to get a passport quickly or that sort of thing.

**Mr. Humphries:** In that respect, Mr. Singer, if we get an application, or a request such as that, we are open at 8:15 in the morning and we can supply an individual with a paper birth certificate for passport purposes within the half hour.

**Mr. Singer:** They don't become emergencies until 5 o'clock on Friday afternoon I find.

**Hon. Mr. Clement:** It's like the member who called me at 5:50 on a Saturday night to see if there was any chance of his occasional permit coming through. We got it for him.

**Mr. Chairman:** Any further questions on vote 1306?

Vote 1306 agreed to.

**Mr. Chairman:** Thank you gentlemen, that concludes the estimates. I appreciate your co-operation and—

**Mr. Lawlor:** Mr. Chairman, we have an agreement as I understood it. When we brought the business practices thing up, I then had indicated that I was anxious to spend at least a few minutes with the minister on the federal Competition Act, about which the Premier of this province (Mr. Davis) and this minister have had things to say that would greatly affect the future tenor and direction of his ministry. It would probably be more important to the future than

anything else we've done here. At that time, about last Tuesday or Wednesday, it was indicated "Please, Mr. Lawlor, desist. I have all my staff here. Let's get these votes over with where staff is no longer necessary and we may—"

**Mr. Singer:** I think you won your point.

**Mr. Lawlor:** Are we okay? I would like a half hour tonight.

**Hon. Mr. Clement:** I would love to talk to you for half an hour.

I'll tell you what, we might even be able to shorten it. I'll invite you to go to dinner with me tonight and perhaps that half an hour will shrink to five minutes.

**Mr. Lawlor:** I want to tell you a little secret. I left my file at home and I've been trying to get through to 6 o'clock on the whole matter, to be quite frank, so I can duck home and pick up the file and be on when we get back.

**Hon. Mr. Clement:** Are you inviting me to your house for dinner? Is that what you are saying?

**Mr. Lawlor:** I can't go to dinner with you.

**Hon. Mr. Clement:** Okay.

**Mr. Singer:** Are we coming back?

**Hon. Mr. Clement:** Yes.

It being 6 o'clock, p.m., the committee took recess.

## CONTENTS

Tuesday, May 22, 1973

Public entertainment standards programme, concluded .....	S-543
Property rights programme .....	S-551
Registrar General programme .....	S-577
Recess .....	S-579







# Legislature of Ontario Debates

## STANDING COMMITTEE ON SUPPLY

Estimates, Ministry of Consumer and  
Commercial Relations

Chairman: Mr. J. A. Taylor

OFFICIAL REPORT — DAILY EDITION  
Third Session of the Twenty-Ninth Legislature

Tuesday, May 22, 1973  
Evening Session

Speaker: Honourable Allan Edward Reuter  
Clerk: Roderick Lewis, QC

OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 22, 1973

The committee resumed at 8:05 o'clock, p.m.; Mr. J. P. MacBeth in the chair.

## ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (concluded)

**Mr. Chairman:** I think we have a quorum and I will call the meeting to order. Who was the next speaker?

**Hon. J. T. Clement** (Minister of Consumer and Commercial Relations): I think at the time we rose, Mr. Chairman, we had concluded the estimates. But there was, I believe, some question which came to the minds of Mr. Lawlor and Mr. Renwick concerning Bill 256 or 236, which is a federal bill—the competition bill, C-256. We touched on it the other day and I think it was the consensus of the committee that perhaps we could discuss it at the end of the estimates. You were going to go home and get your file on it, Mr. Lawlor.

**Mr. P. D. Lawlor** (Lakeshore): Yes, I—

**Hon. Mr. Clement:** Did you go home?

**Mr. Lawlor:** I got home and almost left without the file, because I couldn't find it. As a matter of fact it was under some bedclothes, if you want to know. The ladies had some company this weekend—

**Hon. Mr. Clement:** It speaks well of the bill.

**Mr. Lawlor:** Yes, it speaks well of one's dedication—

**Mr. Chairman:** It doesn't speak well of Mr. Lawlor, though.

**Mr. Lawlor:** —for this particular period of time. I did want to speak, shortly I trust, a bit about competition policy. As you know the Act is thrown very wide and covers a whole range of problems which directly concern you in terms of abusive business practices, price of maintenance policies of all kinds, restrictive practices as to area and product, tied sales, any number of things, all caught together. And not you so much, Mr. Minister, but your government, has

made a portentous attack against that legislation and I thought it was just as wise if we began the debate here insofar as it affects Ontario.

You see, I blame this province for having emasculated, torpedoed and undermined the federal Carter proposals, the basic thesis of a buck for a buck, in favour of the business community—for big business, not the business community. And what happens when the crunch is on, when the chips are really down with this government? While you may be red Tories a good deal of the time and ostensibly your intent and purpose in consumer legislation is to move in on the free market, because you recognize its inadequacies, the in-built inequalities in the market and the quality of the bargaining power present, when the crunch is really on, when things begin to matter in politics, when you wonder where the power forces are, in which direction you are going to proceed and whom you are going to give your final support to, your government comes down heavy on the side of the big business community. I find that this is so in this competition policy that your department—not your department, but the Provincial Secretariat for Justice itself, has issued in what I suppose you would call your red paper, which is certainly belied by its contents.

In this particular area we feel it needs a concerted effort towards affirming and making workable a free enterprise economy which has validity, one that has teeth to it, that really operates, and an economy that goes towards, somewhere towards the idea of a perfect competition. Let me say that this is highly valuable from an economic point of view all around primarily with respect to inflation, providing a competitive market keeping prices down and a wide range of products instead of what has been the ongoing tendency of the past 50 years in America—particularly talked about by Galbraith—of greater and greater degrees of monopolization, of price fixing, of managed markets—managed markets not only in terms of prices but completely lacking a competitive ethos and managed through advertising and the control of advertising which generates

artificial markets, tastes, wants and needs that people don't really have any need for.

It would be far better in terms of the common weal—and I thought there was a dawning recognition of that, too, by Basford on the one side of the fence, as he is always to some degree apart. Andras succeeded him and has made statements under this particular head. And then you come along in the course of the thing—your government, you have a responsible ministry and directly pertinent to these matters—you come along and throw the bomb.

Now this has, so far as I can see—just as in the taxation thing—substantially subverted and undermined the true intent of this legislation. So they have abandoned the field and we are right back, pretty much, to where we started. We would have been probably better never to have ventured into the thing at all. And there is a great deal of good contained in that legislation but as it is subverted it becomes milquetoast and laggard. It is your responsibility and your fault that these things take place and it is the job of the opposition to bring it to your attention and really to speak with some degree of irritation, to say the least, as to the way you are handling these things.

What you are doing is condoning an increased cartelization in the economy. That is really what it comes to. You say that the existing structures of industry, far from requiring to be dismantled, far from mergers being subjected to the closest type of scrutiny, far from the industrial base seeking to ever mount greater power, are great things and are all highly beneficial.

What a reversal of form! The strangest thing has happened in the business community since Franklin Roosevelt. While still sticking by the nostrums as to a freewheeling market that they give at the Junior Chamber of Commerce meetings, everybody wants immunization, to the greatest extent possible, from that market. They want to control that market; a complete reversal. They use governments as their handmaiden in this particular venture. And governments like yours are altogether too willing to lend assistance. So there is an amalgam or a real merger between big government and big industry against the consumer, against the little man, against the people. The reasons given for it largely involve a great deal of prating about our position on the international market—that is always dragged in as a red herring.

We have to decide in this country and in this province what are our intentions and

what it is we are proposing to do. And under this head, the remarks of Robert Andras in May of 1972 are fairly pertinent. He says:

Our economic system does not and cannot exist for the purpose of creating wealth as an end in itself nor for the sole benefit of a few. Rather it should exist to create wealth which will be used to improve the well-being of all Canadians. Your well-being and mine and that of all Canadians consists of many things. Not only material possessions but also of health and pride in self and family and country as well as an access to the arts and many intangible values. We create wealth so that all our people can achieve a fair share of these, each being entitled to enjoy a minimum existence as a matter of right. Improvements above the minimum is a matter of reward.

Those rather general and somewhat flatulent remarks are still to the point as to what kind of society you're trying to create. Is it for the benefit of all Canadians in a direct sense and spread over the whole population, as distribution of the tax burden? Or, is it a rewarding of the very few, because they happen to be able to pull the strings and are the beneficiaries of the whole economic system; which is oriented around them and derives its strength from them?

As you know, the Premier (Mr. Davis) has made a major speech on this matter of fairly recent date; I think it was to the Granite Club. He talked about a comprehensive industrial strategy as being the foremost concept.

In contradiction to that, Ron Basford, when he was minister in 1971, said:

But we live in a human and thus imperfect world. Competition does not always operate it, or if it operates it, does so imperfectly and inefficiently. Prizes are sometimes fixed. A few powerful dominant firms monopolize or control a given market. Some industries are insulated from the healthy and stimulating influence of freer trade and foreign competition. Patent privileges are sometimes abused. Some are able, by one means or another, to immunize themselves from the discipline of the market.

This is a recognition coming from people who are usually in the pockets of the well-to-do, nevertheless, having enough trust in the public will and enough cognizance of its needs, to move in the direction of seeking to do something about the ongoing monopolization. You and your government—well, maybe not you personally, I don't know, but your government certainly has moved in precisely



the opposite direction, as was highly predictable. And this is the ongoing thing.

Now, you attack the ongoing monopolization on the basis of its constitutionality—as moving into fields that the provincial government alone should touch—service industries, for the first time, as you know, and the trades and the professions.

And you say: “Kibosh. Keep at arm’s length. Verboten. You must remain outside our chosen territory.”

I say: “Balderdash.”

One of the problems with our present constitutional structure is this airtight departmentalization. It’s just nonsense in regulating those industries, and if you’re not prepared to do so, I can see no particular deficit in that regard, particularly if it’s done country-wide. And particularly if it affects all elements of the population, is not stipulated in any region and it can be adjusted to take great umbrage with the tribunal that they’re setting up. It’s an administrative tribunal which, I think, has a good deal of worth.

When this Competition Act was first brought forward by the Economic Council of Canada, it was given the task of surveying the field, and published a substantial report about the degree of restrictive practices—price fixing and monopolization—and documented down to the ground that this country feels the urgent necessity of some kind of Act to make free enterprise do, in fact, what they list in private or, more often in public.

The follow-through that the federal government was prepared to take went completely against your grain. This tribunal would be composed of, as I see it, a great number of completely competent and expert people, including economists. The present law deals with the courts. What competence have judges, by and large, in the area of economic affairs? Or the nemesis of sociology, or in the regions having to do with population pressures, and demography? None whatsoever. And the reason you get these purblind backward decisions in this area, time after time, proceeding from the courts, is because of this profound ignorance.

They do the best they can but their lights are darkened and their minds are limited.

And so they set up a tribunal of experts in Ottawa in a wide range of fields, who, with competence, will hear the merits of a proposed merger. They take it out of the criminal courts completely, making this a civil matter for the first time and really bring expertise to bear as to its legitimacy.

There is a great deal of prating and complaint in your documents about a competition test—that there is no test of what competition is agreed upon. You know what happened under the present legislation about the test of undue. Nothing apparently under the sun was undue; and now, under your pressure, they are seeking to insert the weasel word “materially” into the legislation. I suspect, again, that will prevail and it will have to be “materially” undue—“materially” competitive, affecting the competitive market under franchise agreements, or under exports or specialization or anything else, that will be taken as being influenced by this legislation.

They have brought the concept of misleading advertising into the thing and the idea of the credulous man that has been so pilloried and pooh-poohed—the degree would be almost incredible if I were that credible to accept it. I can see nothing wrong with the test as such. It has to be tested and given definition, but again, the weight of your animadversion against the legislation is such that it’s being dropped. It’s been emasculated and removed from the legislation, so that we emerge at the end of a long tunnel without any more light than we had at the very beginning—and it’s largely through the doings of this government.

I wonder whether you, as a minister deeply concerned with this sort of thing, ought not to have a voice and speak on those areas which you think have efficacy and worth; but surely, it’s not for me to become the advocate and proponent of the free enterprise system, God forbid. But apparently, the last of the two free enterprisers have to sit here speaking to a government supposedly dedicated to the proposition in order to inform them what their job is, tell them what they really should be doing in this particular area, if they had any faith in them, or believed what they said.

It is an ignominious position to be placed in on a Tuesday night, and particularly when you had to come back in order to do it, but such is the lot of the opposition, and I leave it with you.

**Mr. Chairman:** Thank you, Mr. Lawlor. Any comments, Mr. Minister?

**Hon. Mr. Clement:** I just wondered how you wished to approach this. Do you wish me to comment on it now? Or does Mr. Renwick or anyone else wish to comment? If not, then I will.



**Mr. D. M. Deacon (York Centre):** Could we get your views, perhaps, now?

**Hon. Mr. Clement:** Well, firstly, what we are discussing here this evening is, perhaps, to a certain extent, a matter of conjecture. We know what the Bill C-256 said when it was introduced some two years ago, by, I believe, Mr. Basford. As I pointed out the other night, it has died on the order paper in Ottawa. When I met with Mr. Grey, the present minister, in mid-January, he very positively indicated that it would be reintroduced sometime this session in the federal House. He described it as being substantially the same bill. There would be certain modifications, but that's as far as he really went. He indicated that it was in the process of being drafted. The business community has taken a certain position with reference to the old bill, and I suppose this is really what we are discussing—and the province has taken a position with reference to the Bill C-256 which was introduced—

**Mr. Lawlor:** Precisely the same position as industry, yes.

**Hon. Mr. Clement:** I don't say it is exactly the same position, because there are some substantial differences, I may point out. It would appear that the bill is an omnibus piece of legislation which should probably be the subject matter of three bills. It deals in certain parts with competition, with industrial rationalization and with consumer protection.

We take the position that a bill dealing with unfair competition should strike a proper balance, restrict itself to the isolation of offensive business practices and go no further. The other matters can be the subject of another piece of legislation.

Insofar as monopolies are concerned, I don't think the government can take the position that all monopolies are good or that all monopolies are bad. But if you freeze the situation as it exists, the tribunal, as I understand the way the original bill was set up, will have to adjudicate on mergers and amalgamations and decide if a monopoly in a particular instance is good for the people of this country.

It is a calculated guess as to the tribunal's ability to look into the future. This was drawn to my attention in an article I read some time ago. I quote:

Some past errors have been in the nature of the Canadian Breweries case heard under the current Combines Investigation Act. At the time of that hearing the firm had cornered 60 per cent of the market and was

expected to take all. As it turned out, the case was inconclusive, but not too long afterwards, because natural market forces had reduced the firm's share of the market by approximately half.

The tribunal would have to make judgements on probabilities rather than on facts. The province takes the position that the tribunal would in effect be directing the industrial strategy of this country and would not be accountable to anyone in particular. This government takes the position that the industrial strategy of this country should be developed by legislators and not by civil servants or full-time employees of the tribunal.

In the Speech from the Throne made in January 1973 at Ottawa, it was mentioned that the bill was going to be reintroduced. The Speech from the Throne stated, amongst other things, that the government desired to work with the provinces "in the harmonization of goals, policies and programmes for the benefit of all Canadians."

We take the position that there should be co-operation between all the provinces and the federal government before any such legislation is brought into being. In that way, we can have the benefit of the thinking and experience of many jurisdictions pertaining to business in this country.

If we freeze things as they are, we would preserve any present monopolies which may be in existence and not in the best interests of the public at large. We don't think that should necessarily occur.

We feel that the federal government should develop an industrial development strategy for the whole of Canada and, as I've already touched upon, that the federal government should work closely and co-operate with the provinces to develop perhaps three bills—I've already mentioned what they should be—and not try to develop omnibus legislation to cover every aspect of the marketplace.

We feel that the tribunal itself would end up having substantial powers delegated to it. It is supposed to be quasi-criminal or criminal legislation; yet the old bill provided remedies that are unknown to the criminal law, such as double damages, injunctive procedures and this sort of thing.

We simply feel that the federal government is not in a position to bring in a business-oriented piece of legislation that can direct the industrial strategy of this country without close liaison with the provinces—and we hope the remarks contained in the Speech from the Throne would indicate that this is the goal.

Last Thursday, I spoke to a federal member who assured me he would supply me with a copy of the bill as soon as it is introduced. Mr. Gray has also agreed to send down half a dozen copies of the bill once it's introduced for first reading. To date, of course, we haven't got it; and I'm looking forward to receiving it. The province has taken a very flexible position in the hope that we can make some contribution to the development of the terms of the bill.

Those are about the only comments I have at this particular time, Mr. Chairman. We're concerned that with the wrong turn, the whole business life of this country will flounder if this bill is brought in on the basis that it was introduced in 1971.

**Mr. J. A. Renwick (Riverdale):** Mr. Chairman, there are about three areas of the minister's remarks that really concern me immensely.

The Premier's speech on Feb. 14 to the Association of Consulting Engineers of Canada was in fact a total frontal assault upon the federal competition bill. It wasn't designed for the purpose of suggesting there were ways in which it could be fitted into a national and provincial co-operative scheme in any way. You cannot realistically suggest that this is the case.

You indicated there was some difference between the position of the Canadian industrial community and the Premier, but the Premier himself certainly didn't see it. He stated in that address:

I should add that we arrived at our views independently after a scrupulous and expert examination and analysis of every aspect of the question. But they are also views, as it turns out, that are apparently in reasonably full accord with those of the Canadian industrial community.

For the purpose of a discussion such as this, we have got to take the position that this government has come down completely on the side of the Canadian industrial community. It has done it in three ways.

The minister knows, as well as anyone else does, that the only basis on which there was any kind of overt regulatory authority in the federal government with respect to monopolies and mergers and control of an undue share of the market and so on, was by virtue of criminal law legislation. Anyone knows that this exercise of authority through the criminal law was totally inadequate. Even where it was possible to bring Canadian Breweries before the court, it was impossible

to prove as a matter of conviction that they held 60 per cent of the market or that they were in any way in a position to control that market.

The minister counters now by saying, "We all have the benefit now of competition in the brewing industry." But the fact of the matter is we don't. We buy our beer at the same price. We've got an opportunity to select amongst different brands of beer, but not on the basis of price competition at all and the minister can't really call it a benefit.

The only other head under which the federal government can in any way regulate this whole question of the degree of competition—not whether there will be total competition, because everyone knows that it is almost impossible, if it isn't quite impossible, to provide a situation in which there is going to be complete competition.

Even to have a modicum of effective competitive positions in the marketplace at the present time to provide the consumer with choice requires some opportunity for the federal government to occupy some part of the field. The brief of the Provincial Secretary for Justice (Mr. Kerr) simply points out, for practical purposes, that except for a very tenuous argument based on the trade and commerce clause, there is no field for the federal government. I think it is also perfectly clear that indirectly the government of Ontario has come down against the regulation of competition in the service industries, which were excluded from the original—

**Hon. Mr. Clement:** I am sorry. I didn't hear you on that.

**Mr. Renwick:** The service industries; the professions and other service industries.

Yet we have a point that has been obviously made clear time and time again that it is in the service industries, by and large, that the great bulk of people are going to gain employment, and through which the services are going to be purchased by you and me and everyone else. It is therefore perfectly clear that the government of the Province of Ontario does not intend in any way to provide any form of competition control or regulation of the competitive nature of the service industries, including the professional bodies, as a national matter.

It is also perfectly clear I think that we have heard in this committee the fallacy spread abroad that we are spending all our time protecting the consumer against something called the five per cent of bad guys engaged in industry and that that's what our



directions are against the crooks. The fact of the matter is that consumer protection is not the field which, except in very marginal senses, is concerned with protecting the consumer against the crook. We have the Criminal Code and we've supervisory government regulation which can deal with that area.

We haven't dealt with the whole of it in any way but the whole thrust of consumer protection is denigrated by the government, as I said at the time of my opening remarks in this estimate, because of allowing itself to take that fallacious approach to consumer protection. Consumer protection, in the sense of consumer protection as we understand it, is not concerned with the direct contravention by certain segments of the business community laws or of proper practices but has to do with the overall behaviour of the business community in supplying goods and services (a) of quality and (b) on a competitive price basis.

The whole thrust of the federal government bill was an attempt to move from the criminal law field into a regulatory method on either the United Kingdom type of tribunal or a development of its own restrictive trade practices commission and into an area where it said the people in the country are entitled to a degree of competition within the business community not as a matter of criminal law but for the purpose of ensuring quality products, quality in service and some area of competitive prices.

This government, and again I quote from the Premier, has simply said that that is not an objective of the Ontario government. What the Premier said is:

This unreasonable emphasis on the fostering of domestic competition as a national objective would severely restrict the industrial strategy options open to governments and industry in their attempts to meet international competition at home and abroad.

The thrust of this government with respect to its ongoing policy in the field of trade and industry is not to provide any form of supervision by government with respect to the way the consumer is ultimately treated in the marketplace in the Province of Ontario.

What it is saying to the government at Ottawa, and saying it is part of our philosophy here in Ontario, is that this government calls it unreasonable emphasis on the fostering of domestic competition. There is nobody who could possibly read the bill of the federal government, Bill C-256, and say that

that was an unreasonable emphasis on the fostering of domestic competition.

If you admit there was any field at all with respect to the fostering of domestic competition that bill was a reasonable bill. It is only unreasonable if, in fact, you say that there is no area in which government at the federal level has a role to play in fostering competition as a national objective.

It seems to me—

**Hon. Mr. Clement:** Pardon me. I don't say that the federal government has no role whatsoever. I say that it may have a role. And I'm speaking now privately; I can't bind this government. But my understanding of that bill, Mr. Renwick, is that I may concede that the federal government has a role to play, but that it is not ready to play its role until certain ground rules have been met—namely, the development of a national industrial strategy for the whole of Canada; not just for Ontario, for the whole of Canada. And there is no evidence before us at this time that it has in fact done so. I just want to make that point clear.

I'm sorry if I interrupted you but—

**Mr. Renwick:** No, I think that is quite a valid interjection. I, of course, am pretty sceptical of the mythology of fashions in the world. One of them is that something is going to be evolved by the governments in co-operation, which is going to become the national industrial strategy. There isn't going to be any such thing at all.

What there is going to be is a continuous permission granted to something called big business to consolidate its interests with a marginal protection by the government in its obedience, as it has in the farming community, to the small business firm, the so-called family firm. That's what is going to happen and that is what is happening.

I think that there is a very legitimate, proper concern in our kind of developing economy, having regard to all of the needs for technological innovation and the ability to compete in world markets. There is a very legitimate role that can be performed, not by statements in the House of Commons in Ottawa or by statements in the legislative assembly of the Province of Ontario, but by an ongoing body which has some responsibility to induce competition on a proper basis in Canada as a whole and, I would certainly think, in the Province of Ontario.

**Hon. Mr. Clement:** At this point can I ask you for thoughts on this? Do you feel that



that role should be cast upon a competition tribunal or should be cast upon the government of the day?

**Mr. Renwick:** I don't think it can be cast upon the government of the day. The reason why it can't be cast upon the government of the day is that when you are inducing competition and trying to foster competition—which is I think a fair word to use—then you've got to have some kind of an ongoing body that will deal day in and day out with the conditions under which competition will be fostered. It must deal with those practices which are affecting the fostering of that competition without merging over into the criminal law on one side or without simply saying, "Oh well, business is all perfectly fine except that, you know, that little five per cent that we spend all our time chasing around."

We are talking about the delivery of quality products and services at fair prices—and at competitive prices. The whole thrust of this statement—And I really marvel at the government, how they can play "on the one hand and on the other hand," better than any government I've ever seen.

We had the Premier today saying, for practical purposes, that at the federal level the question of price control or wage control—he almost said that it could only be exercised by the federal government in a condition of emergency. Now everybody knows that there is no emergency power under the constitution of Canada and everybody knows—

**Mr. V. M. Singer (Downsview):** Oh, no. That isn't what he said.

**Mr. Renwick:** He said that it had to be an extremely serious situation—

**Mr. Singer:** To bring him around to agreeing to it. Not—

**Mr. Renwick:** But he said that the primary role had to be played by the federal government. And it is now also perfectly clear—

**Mr. Singer:** Yes, but he didn't say in a condition of emergency; only under emergency power.

**Mr. Renwick:** All right. What he was in fact saying is that the situation had to deteriorate to the point where the federal government could move in an area which would then require provincial co-operation, but it was only under those circumstances that he would co-operate.

**Mr. Singer:** Yes, it is quite a different thing.

**Mr. Renwick:** Now, with a different emphasis, that is what, in my judgement, the Premier said.

**Mr. Singer:** You said two different things.

**Mr. Renwick:** Yet at the same time, we get this paper put out which destroys the constitutional ability of the federal government to deal in a field where I think it has a role to play.

Now, I think the fragmenting of that bill and dividing it up into three separate bills will foster the philosophy that the member for Beaches-Woodbine (Mr. Wardle) spoke about; that what really we are dealing with is just the five per cent—and that's really this marginal, chasing-the-robbers operation—and will get away from what appears to me to be a very clear balancing need in the economy and that is to foster something called competition. Now that doesn't take away from a recognition of the need for the government to be alert in promoting the capacity of the Province of Ontario, particularly in international competitive fields. Or of the obligation of the federal government to promote the competitive nature of Canadian industry in the international fields. I would like to know whether or not in this statement by the Provincial Secretary for Justice there was any input from the minister's department as part of the group of ministries within that. If not—and I am inclined to suspect that the "if not" is right! If so, fine—if not, then I would like to know, following upon this position paper, the minister's views with respect to consumer protection in the area of the fostering of competition. I'd like to know if this isn't a matter which deserves his attention in his discussions with the federal government and in an independent initiative or input, as the fashionable language of the day goes, to this whole question.

**Hon. Mr. Clement:** Not necessarily in the same order, but hopefully touching on those matters that you have commented on, Mr. Renwick, the ministries within the justice policy field were invited to participate in the formulation of that document. I presume that is Ontario's position paper on the competition bill. And my ministry did, in fact, make representations in connection with the development of that particular paper. You have already touched upon certain matters about fragmentation, which plays such a significant role in that particular paper and,

accordingly, I'll make no other comment concerning it.

One thing that does bother me, personally, is what would appear to be—and it is touched on in this paper—the transplanting of some of the American principles dealing with anti-trust laws. I've had occasion to meet with industrialists and people in larger corporations in the United States; I've met them in business and I've met them socially, and it seems to me that the anti-trust law, through the eyes of an outsider such as myself, is nothing today in the United States but a tremendous barrier in the development of just about anything. They're so darn frightened over there to even have two competitors talking over a social cup of coffee without making copious notes as to the gist of the conversation, that I think the Orwellian theory has pretty well come to roost in the United States. They're very, very concerned about it.

As recently as some six or seven weeks ago, I had occasion to speak to a group down in Florida about consumer protection and, on the same panel, at the same time, was a young man in the anti-trust division of the United States Department of Justice. They really weren't concerned too much with what I had to say—at least, this was my impression; but they were very concerned with the anti-trust man getting his views, even as to their gathering under one roof: was there anything that in the eyes of the anti-trust people might be construed as improper conduct by them? I found it peculiar, in these days of free speech, that these people were genuinely concerned about that. And if we get into this situation where the tribunal is going to rule on every merger and amalgamation, I personally foresee the day when if you and I wish to get into a merger of law practices, that this might be construed as not being in the public interest.

**Mr. Lawlor:** They are putting a floor under that of \$100,000.

**Hon. Mr. Clement:** I beg your pardon?

**Mr. Lawlor:** I understand they are putting in a floor of \$100,000.

**Hon. Mr. Clement:** Well, I wouldn't worry much about it as far as my practice was concerned, but Mr. Renwick's might make up that total amount. So we might have something to concern ourselves with.

**Mr. Renwick:** Yes, I would think so. Mine would, undoubtedly. Right to the day, I would guess I could get about that.

**Hon. Mr. Clement:** My receivables might total near that, yes.

**Mr. Renwick:** Mr. Singer would be a little ahead of that.

**Mr. Singer:** Is this net worth, or sales value?

**Mr. Renwick:** This is net worth right now.

**Mr. Singer:** Oh yes, yes.

**Hon. Mr. Clement:** The paper has pointed out, I think quite properly, the uncertainty for business, not knowing which way to turn.

There is the question dealing with the jurisdictional problems. I am not going to regale you on the British North America Act. Some days ago, Mr. Renwick, you challenged me, saying that if there was a void in the field, why didn't we move into it if the demand was there. Instead of worrying about vires, should we not move in that direction and worry about our constitutional position afterwards? Ontario's position paper has pointed out that we are already in certain fields—loan and trust, insurance, securities underwriting and so on—and yet if we get into a federal field then businesses not only will have to concern themselves with the provincial situation, but the federal as well. And we think that that will create a lot of uncertainty as far as the business community is concerned.

I don't think I have anything further to say. We take the position in essence that the move in this field should be a co-ordinated effort between the federal government and all the provinces. A week from this Thursday and this Friday—I guess that's the end of May and June 1, all the provincial consumer ministers and the federal consumer minister will be meeting in Quebec City to discuss many areas of common interest.

**Mr. Singer:** How long are you going to meet? A month?

**Hon. Mr. Clement:** Two days.

**Mr. Singer:** Two days! My goodness, the number of things that are going to be on that agenda would take at least a month to even read.

**Hon. Mr. Clement:** The invitation has been extended by the provincial Liberal minister in Quebec, and I am sure he has visualized that all the problems can be handled in the 48 hours. So I am looking forward to meeting up with him once again—a very charming



individual. And perhaps by that time this discussion tonight may leave the area of conjecture and we may have something a little more concrete in that between now and a week on Thursday. Mr. Gray may well have introduced his new bill and we'll have something to proceed on at that time.

I am looking forward to hearing the discussions, if that is the event that takes place. I will be interested in hearing the discussions from my counterparts in the other provinces. I have briefly discussed it with Mr. Tetley from Quebec, but I have not discussed it with any of the other ministers. But I am looking forward to discussing other areas of common interest—proposed securities legislation, companies legislation, advertising, this sort of thing.

**Mr. Deacon:** Mr. Chairman, surely the concern about the role of the tribunal should not be as great as evidenced in that paper, when a tribunal after all can be overruled by the government of the day, and in fact the government does have control over the policies? The day-to-day responsibilities you have to have in the hands of experienced people, who are keeping a tab on what is going on. But if any situation arises where the government doesn't agree with what is being done it can soon override it, just as it can with the Canadian Transport Commission or any other type of body.

**Hon. Mr. Clement:** I don't know where you proceed from, in the event that you wish to move beyond the tribunal. I don't think there is any provision to go to the courts. I think that the next step would probably be to the cabinet.

**Mr. Deacon:** Right.

**Hon. Mr. Clement:** And that may well be in order—again, if the House is sitting. If it is not sitting then there is difficulty. If it is sitting and doesn't wish to discuss it, then one has to wait. For example, if certain agreements are found to be contrary to the Act, the bill provides for a maximum fine of \$1 million. And in fact, then, you are placing in the hands of a single judge, really, life and death.

**Mr. Deacon:** A single judge?

**Hon. Mr. Clement:** Yes.

**Mr. Deacon:** Not a tribunal?

**Hon. Mr. Clement:** No, no a judge, in the event that the quasi-criminal matters are

taken to the court. And here is a man ruling over the life and death of an industry, who has the ability and the power to levy a \$1 million fine. To me, this seems to be a tremendous amount of power to repose in the hands of one individual sitting alone.

**Mr. Deacon:** Well, in effect, is the ultimate control in the hands of the cabinet?

**Hon. Mr. Clement:** I would think that that is probably a pretty fair assessment of it. And if the cabinet was sympathetic, then, fine. If the cabinet for one reason or another was not sympathetic, then in effect the tribunal would be the court of first and last resort.

**Mr. Chairman:** Further discussion? Thank you, gentlemen.

**Mr. Renwick:** Mr. Chairman, just before we go, perhaps even though we haven't dealt with it under this minister's responsibility, would he make a brief statement about the progress of his interdepartment committee on the liquor question? That is what I was getting at when I made my remarks earlier.

**Hon. Mr. Clement:** Pardon?

**Mr. Renwick:** You have this study going on about the liquor legislation. Has it made progress? And is there a committee?

**Hon. Mr. Clement:** Yes. I hope to introduce legislation within the next few days, only dealing with a portion of what I consider to be matters of concern: A very minor amendment to the Liquor Control Act, and some amendments to the Liquor Licence Act. I am not at liberty to disclose the contents of them right now. I hope to make substantial amendments, certainly to the Liquor Licence Act this fall.

There are great areas of concern to me, from the public point of view—and there are all kinds of views. When I say the public view, we can't just isolate it and say the public has one view. The public has many views. I have met quite consistently throughout the winter months with different groups who have points of view, some of them very, very biased, some of them of a more general nature.

There are some other groups which I feel I should meet with, and I hope to meet with them over the next few weeks. These are certain professional groups, not connected directly with the sale or distribution of bev-



erage alcohol. But I don't feel that any comments I could make, or any legislation I may be prepared to support, would be valid without hearing from these people.

Hopefully, in the autumn I would introduce, in effect, a brand-new Act. I hate this approach to piecemealing legislation and tacking it all together, but the task has been so tremendous that if I let all things go to the fall I feel that there are certain areas that would be bypassed immediately and

should not be bypassed. It should be dealt with right away.

So that pretty well is a statement. It is a very involved piece of legislation.

**Mr. Chairman:** Thank you, Mr. Minister. This completes the estimates of the Ministry of Consumer and Commercial Relations.

The committee adjourned at 8:55 o'clock, p.m.

## CONTENTS

---

Tuesday, May 22, 1973

Estimates, concluded .....	S-583
Adjournment .....	S-592



# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of the Environment**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Tuesday, May 22, 1973**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

TUESDAY, MAY 22, 1973

The committee met at 9:05 o'clock, p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ENVIRONMENT

**Madam Chairman:** Mr. Minister and gentlemen, this meeting of the standing committee on estimates will come to order. I have substitutes announced for this evening: I have Mr. Good for Mr. Worton; Mr. Carruthers for Mr. Drea; and Mr. Burr for Mr. Deans.

Now, we are to hear the estimates for the Ministry of the Environment and the procedure I propose is as follows. First we will hear preliminary statements from the minister, and from the spokesman for the opposition, and the spokesman for the NDP, followed then by an examination of the estimates vote by vote. I will ask speakers to signify their desire to speak, and to speak precisely to the item under discussion. And we will be meeting tomorrow afternoon from about 2 p.m. to 4:30 p.m., so you will be getting a notice to that effect.

**Mr. E. R. Good (Waterloo South):** When was that decided?

**Madam Chairman:** It was decided this evening.

**Mr. Good:** By whom?

**Madam Chairman:** In consultation with the minister. He signified his willingness to the House leader and myself.

**Mr. Good:** I understand the House is not sitting tomorrow, is that correct?

**Madam Chairman:** So I understand.

**Mr. E. W. Martel (Sudbury East):** I understood there were no committees sitting tomorrow, absolutely none, in view of the conference.

**Mr. Good:** I want to be here, but I understood as of last Friday it was announced the House would not be sitting on Wednesday.

Consequently, I figured the estimates committee would not be sitting either, so I have made other arrangements for tomorrow.

**Mr. Martel:** We're back to square one, where we left off when you were last in the chair, Madam Chairman, approximately two weeks ago, when you were scheduling things without the consent of this committee. And I continue to resent your operating this as your own little bailiwick. There are members of this committee with whom quite naturally you should be discussing the matter and not arbitrarily making decisions on your own. You continue to get into trouble—and now we will be into it for another half hour—you continue to be in trouble constantly when you occupy that chair because you make rules of your own which are completely contrary to the House.

And I want to suggest to you that we have just finished a set of estimates and throughout that entire set, I did not hear a point of order raised once. Not once. But these chairmen operate in a vastly different way to you. They consult with the rest of the members of the committee. They follow the rules of the House, which you obviously don't believe you have to follow. Consequently, it is quite obvious we will be into battle after battle as we go along in this set of estimates as well, which will just stretch them out two or three days longer than is necessary.

**Madam Chairman:** Mr. Martel, you cite the rules of the House. If there is a rule that says a standing committee may not sit on Wednesday, I wish you would cite it for the edification of this committee.

**Mr. Martel:** And if you could cite, Madam Chairman, a rule that says this committee will sit different hours than in the House, I would accept it as well.

**Madam Chairman:** There is plenty of precedent for that.

**Mr. A. Carruthers (Durham):** Madam Chairman, I wonder how many members here can be present. I don't think there are going to be too many available.

**Mr. Martel:** That is never taken into consideration. I am sorry, but that is never taken into consideration when Madam Chairman hands down the rules.

**Mr. Carruthers:** I think we should take that into consideration.

**Hon. J. A. C. Auld** (Minister of the Environment): Madam Chairman, I am all in favour of it because I will miss a 2:45 appointment with the dentist tomorrow.

**Mr. Martel:** Well, we suggest you go to the dentist.

**Hon. Mr. Auld:** I am sure you would.

**Mr. Martel:** For all kinds of reasons.

**Madam Chairman:** The House leader has indicated to me that tomorrow is what you might call a light day in terms of committees, so that there is very little conflict and very little reason why members of this committee could not sit. The last time our Wednesday meeting was adjusted, it was because so many other committees were sitting that it was very difficult for members to be in more than one committee at one time. But tomorrow I understand that only the committee sitting on Hydro hearings is meeting, therefore it seems as if there is no real reason why we cannot go forward with the business of the House.

**Mr. Martel:** Except, Madam Chairman, last Friday it was announced that nothing would sit tomorrow, and people made plans based on the announcement in the House, and you once again have chosen to make your own rules.

**Madam Chairman:** No, I haven't made my own rules, Mr. Martel.

**Mr. Martel:** Certainly you have.

**Madam Chairman:** Not at all.

**Mr. Martel:** Well—no, you haven't. You have just said we will sit tomorrow. It's just as simple as that. Despite the fact the House leader said last Friday that there would be no committees sitting on Wednesday. All your people made appointments and so on for tomorrow; I have a delegation coming in tomorrow afternoon. Because there was nothing sitting, I am bringing in some people, some resource people in the area I am responsible for in the city. They are coming in from some considerable distance.

You decide—not in consultation with this committee—you decide—as you are wont to

do all the time—how the game should operate. And as I say, we continue, and before we get started it will be 9:30 p.m. And we will go through this over and over and over again throughout any set of estimates where you occupy that chair.

I make the point that we went through a complete set of estimates with a different chairman, and there was not even a point of order raised once. There was co-operation from the outset and it prevailed throughout. You happen to have a happy faculty of making rulings, making decisions, contrary to what has gone on in the House. Contrary to what the House leader has announced, you make a decision.

Well, you can't expect the committee to operate in that fashion, with any degree of co-operation or otherwise.

**Madam Chairman:** Thank you, Mr. Martel. Now, the first speaker will be the minister—

**Mr. Martel:** Well, Madam Chairman, I am going to move, then, that we don't sit tomorrow.

**Madam Chairman:** Have you a seconder?

**Mr. Martel:** All right, Mr. Burr will second it, and Mr. Good.

**Mr. F. A. Burr** (Sandwich-Riverside): I second it.

**Mr. Martel:** Now you can take it from there, Madam Chairman.

**Madam Chairman:** A motion has been put. Is there any discussion? Or any further questions?

**Mr. Burr:** Madam Chairman, I can be here tomorrow, but I should have preferred to be consulted in this. In fact, I was in the House all day waiting to hear that this committee was about to sit. I went down to my office for three minutes, came back up and I found that the Environment estimates were started—at least that was what I was told in the hall. And I got here, and within a minute or two order was called. It was just by chance that I got here. I feel that I should have been given a little more consideration.

**Mr. M. Hamilton** (Renfrew North): I think, Madam Chairman if we are going to argue this particular situation for the remainder of the evening we are going to lose as much time as we might gain tomorrow. I think that you should call a vote on it. Let's get on with the estimates.



**Mr. Martel:** That's right. That's what we would like to do. I agree with the member.

**Madam Chairman:** Well, you have a motion before you.

**Mr. Good:** I would just like to say this. If it is agreed to meet, I can rearrange things at great personal sacrifice and I will be here, if I have to be here. But it certainly doesn't suit me one little bit, and on the strength of the House leader's announcement that the House would not sit tomorrow, I took it for granted that the committee likewise would not sit.

**Madam Chairman:** There is a motion before us. Are you ready for the question? All in favour of the motion?

Six.

Contrary?

The motion carries.

**Hon. Mr. Auld:** My dentist will be delighted.

**Mr. Martel:** Oh, I am glad.

**Madam Chairman:** Mr. Minister, would you like to—

**Mr. Martel:** Do you want me to go and hold your hand?

**Hon. Mr. Auld:** You can't. You've got a delegation.

**Mr. Martel:** No, but I was just thinking you might.

**Hon. Mr. Auld:** Well, Madam Chairman, I thought this year I might make a brief opening statement—a little bit of history in as much as the Ministry of the Environment is now officially one year old. It was just over a year ago that the various aspects of our programme were assembled into the sphere of one agency, the Ministry of the Environment. This past year we have undertaken a task of refining our legislation, our regulation structure and our programmes to provide the comprehensive environmental approach for which our ministry was designed.

An essential part of this approach is working with other ministries and other levels of government to guarantee life's basic amenities to all Ontarians. I think, Madam Chairman and members of the committee, that this is very clearly reflected in the estimates before us tonight. The total is \$130,732,000, and of this amount \$49 million is actual operating budget. The balance, \$81 million,

reflects loans and grants for the capital construction of water and sewage treatment facilities.

Since its founding in 1957, the Ontario Water Resources Commission, and subsequently this ministry, has issued certificates for municipal water and sewage works worth more than \$2.6 billion. Last year, \$344 million in sewage and water works were approved and \$75 million worth of those projects involved provincial financing.

In the municipal field, the ministry has financed and constructed 418 projects serving 241 municipalities and supervising the operation of all these works. Sixty-five of these water and sewage works are owned by the province.

Of the \$49 million in operating finances, \$12 million is set aside for operation of treatment facilities and this, of course, will return as revenue to the province from the municipalities served.

We're in the field, in a very large way now, of making grants to small municipalities and we expect to grant \$3.6 million to smaller municipalities to make possible the construction of adequate water and sewage treatment facilities. Since 1969, when Ontario undertook this programme of extending financial aid for, at that time, up to 50 per cent of capital construction costs for these facilities, more than 250 projects were launched. We have spent or committed \$130.6 million in incentives for more than \$400 million worth of water and sewage treatment works.

Early this year, to stimulate similar works in smaller municipalities, the province raised the grant ceiling to a maximum of 75 per cent. The percentage of the capital cost granted by the province is based on consumer cost objectives of \$130 per year for sewage treatment and \$110 per year for water services.

The ministry is getting more involved in the effects of land use on the quality of life. The strategic planning branch, which we established last year, co-ordinates and is consulted on environmental planning and policy analysis.

Our private waste and water branch, in addition to its programme of research into domestic sewage treatment in soil and its cottage pollution control activities, is deeply involved in assessing the suitability of development proposals for specific areas of unserved lands.

In air management, the emphasis on land-use planning is increasing. In 1973-1974 I



expect our formal input into official plans and amendments, subdivision plans and the Ontario Municipal Board hearings will triple. The goal is to provide environmental assessment to help ensure that land use is consistent with air quality considerations.

The activities of this branch are being extended into new territory this year — noise. We intend to regulate noise from vehicles, stationary sources and recreational devices such as snowmobiles in addition to establishing provincial ambient noise criteria and land-use policies. We're limiting the geographical coverage of this programme for 1973-1974 to the Toronto-Hamilton area to get things moving smoothly and quietly. Also in the works is a model bylaw for municipal use in noise enforcement.

The air management branch now monitors atmospheric quality in 44 Ontario communities, maintaining an air pollution index and alert system in Toronto, Hamilton, Windsor and Sudbury. Records of the index provide a clear indication of the general improvement of urban air quality as a result of the ministry's air pollution control programme.

The results of the air pollution control are gratifying. In Toronto alone, between 1966 and 1971, sulphur dioxide levels have been cut in half, and suspended particulate matter, the other major air contaminant, has been reduced by a third. In 1973-1974, in the estimates before the committee, the monitoring network will be extended to measure sulphur dioxide and suspended particulate matter in four additional communities—Oakville, Burlington, St. Catharines and Welland.

The ministry's pesticides control service made great strides last year. The provisions of the Pesticides Act, which deals mainly with the application of pesticides, have been supplemented by regulations under the Environmental Protection Act. These regulations, which classify pesticides in accordance with their potential for harm if abused, govern the sale, storage and distribution and display of these chemicals. The regulations spell out clearly who may sell or apply specific classes of pesticides. The effectiveness of these changes will be demonstrated over the next fiscal year.

A new Pesticides Act, which will encompass all aspects of pesticide control, has been passed by the House and this year will see its implementation.

In the solid waste management field, it has just been two years since the province assumed the responsibility in this matter. At

that time, each municipality owned and operated its disposal site or sites and many of these were open dumps — pollution sources, health hazards and certainly nuisances to neighbours in particular. The first priorities were to make sure that all new sites were located and operated so as to eliminate problems and to replace or improve existing sites.

Our waste management policies have two major goals—to reduce the amount of waste generated and to provide for reclamation of materials or energy. We have encouraged area waste management planning with 50 per cent provincial grants and seven of these studies are now under way. Actually, as of today there are eight. The next step is the implementation of these studies.

There is \$500,000 set aside in these estimates for these area studies — that is, the municipal development of waste management facilities. Our intention is to encourage communities to improve their treatment and disposal of municipal waste. The development of a pilot waste reclamation project—I hope in conjunction with Metropolitan Toronto and the government of Canada—is of prime importance to me.

The budget also provides for two recycling projects, based on the information obtained from the Burlington waste reclamation study. One of these will investigate whether paper alone can be consistently and reliably separated. And, again, as of yesterday, we've worked this out and it's going to take place in Brampton.

We also propose two studies this year on the reclamation of energy from waste—one using ground garbage as a fuel additive in cement kilns and the other using waste in conjunction with oil or coal to produce electricity.

In the field of abandoned automobiles, last year's survey programme to determine the extent and severity of the problem of abandoned automobile hulks littering the province and representing a significant waste of resources, will be followed up this year. We will establish pilot projects in the collection and reclamation of these hulks, trying several methods to determine the most efficient and effective method. We intend to have a province-wide reclamation programme established permanently in 1974.

In the field of organic waste disposal the growing problem of the disposal of these wastes, particularly the sludge from municipal sewage treatment plants, will be dealt with in a programme which goes into full operation this year. This valuable material must be returned to the land and the recent-

ly introduced regulations will ensure strict control to prevent pollution problems and nuisance. As a matter of fact, as an aside, Madam Chairman, it's rather interesting that we've created the problem of this waste because we had started in 1957 to encourage everybody to have a sewage plant. So we solved the problem of untreated sewage going into the water and now we have to deal with the sludge.

In the field of litter we view litter as primarily a behavioural problem and the programme undertaken last year in public education on litter will continue. We want to back up our advertising and information programmes with a continuing cleanup programme using SWEEP students. Last year's litter study and cleanup programme has provided an information base that indicates the type, number and location of litter containers needed for best results.

I've saved one area of our operations for the last because of its importance, not only to Ontario, but to the whole of Canada and the US, and that is the Great Lakes, and particularly the lower Great Lakes.

The Canada-Ontario agreement on Great Lakes water quality commits Ontario to a five-year \$250 million capital works programme to upgrade sewage collection and treatment works in the Great Lakes by the end of 1975. In return, through the Canada-US agreement the US government is committed to a parallel programme.

Part of Ontario's programme involves the installation of phosphorus control facilities at some 200 treatment plants. By the end of this year, these facilities will be completed at 150 of these plants. A parallel research programme is under way, primarily into phosphorus removal, and to date, we have spent \$1.8 million on this programme and we intend to invest another \$2.3 million this year.

The ministry will be continuing its survey and surveillance activities in the lower Great Lakes, assessing the effect of pollution control programmes and the need for further measures, in co-operation with the government of Canada. In addition, a \$0.5 million programme of study will be undertaken in the upper Great Lakes, which is a new International Joint Commission reference. The area of study includes pollutant loads to the upper lakes and near-shore water quality in relation to our water-use criteria and the objectives set through the IJC.

The Great Lakes programme, as you know, is international in scope. In Ontario we are sticking to our timetable. But we are con-

cerned about the rate of progress on the US side and we are continuing to work with the government of Canada in Ottawa and informally with the Great Lakes states.

**Madam Chairman:** Thank you, Mr. Minister. Mr. Good, you are the spokesman for the opposition, are you not?

**Mr. Good:** Yes.

**Madam Chairman:** Would you like to proceed?

**Mr. Good:** Thank you, Madam Chairman. I have a few general remarks before we get into the detailed study of the estimates. First, I would like to make mention of the fact that the environmental council proposed in the Environmental Protection Act, 1970, still has not been instigated by the ministry. I'm beginning to think that the government or the minister is terrified of this concept, whereby the powers that were given in the legislation, which has never been dealt with and never proclaimed, would set up a council that could consider any matter affecting the quality of the environment which the council or the minister deemed advisable—and the council would advise the minister through its chairman, along with other duties.

It will be two years next month since this legislation was instigated, and we have never had a satisfactory answer to why the environmental council has not been set up. I think broad representation on it, similar to the fine work that was done by the pesticide advisory committee, could indicate to the minister what great benefits could be obtained through the setting up of the council.

The Throne Speech this year indicated that an environmental protection agency would be set up. I didn't hear anything about the environmental protection agency in the minister's leadoff remarks. But from what I've been able to gather, this protection agency would be set up as nothing more than perhaps a sounding board for studies into the environmental effects of various projects being considered by the government; although it would, perhaps, provide a useful function with the development of airports or the Nanticoke situation or something of that nature.

The agency's job, I presume, would be to evaluate the studies, probably evaluate the results of public hearings and perhaps just give some kind of guide to the ministry and cabinet. It's my opinion that we need something much more effective and definite and, although I think the original concept of the environmental council was a good one, I'm



at a loss to understand why the ministry should be terrified of such a concept when they had it in their legislation two years ago.

I think that one of the major issues before the province right now is the matter of waste management and the whole issue of landfill sites as we know them at present. We must admit they're an improvement from our old town and municipal dumps. But the matter of landfill sites and the whole matter of recycling and reduction of waste still has to be decided. I feel that neither the province nor Metro Toronto—our largest municipality with a waste problem—has taken any initiative in the matter. I think it's a sad commentary when the only recycling efforts to come before us have come from private companies, with no initial research, promotion or encouragement by the provincial government up until just very recent announcements. Other than a token effort made two weeks ago, when the government announced that Tony O'Donohue would initiate a study into the burning of garbage as a source of energy, no government money has gone into recycling research. Nor has any pressure been put on Ontario Hydro to co-operate in the plan to use steam generators by burning garbage to generate electricity. We have talked about this for the last number of years.

It is almost unbelievable that in our Province of Ontario, single family homes and private property are being expropriated to form part of the 1,300-acre landfill scheme out in Pickering township. I just don't think we can accept that situation at all.

For the past six years, from information I have, the city of St. Louis has been experimenting with, and are now operating, a facility which converts trash and garbage into fuel for power generating plants. We will get into that more in detail later on. It is obvious to all that the government policy, and the policy of the waste management branch, has been towards developing more and larger landfill sites.

In March of this year the minister announced that there would be an all-out attack on noise pollution. It sounds very encouraging. But we must still remember that people have been complaining for a long time about noise problems, for instance, in the Scarborough area along Highway 401, and on Highway 403 in Hamilton, and no action has yet been taken. For years and years municipalities have been frustrated in their attempts to curb excessive noise because of the lack of proper provincial legislation and regulation.

In my own area the councils of both

Kitchener and Waterloo gave up in frustration this past year, after studying the reliability of any municipal bylaws which they could have passed, and they came to the ultimate conclusion that it was useless to try and pass municipal noise control bylaws.

I am pleased and hopefully looking forward to the minister's legislation, which should be a model type of legislation for the municipalities.

During the estimates we discussed in detail the failure of the ministry to provide necessary sewage and water works in many of our small municipalities. There are instances where some towns and villages have been actively trying to get sewage treatment systems for the past five or six year, and are still being put off by government policy.

The role of Ontario Hydro as a major polluter must be discussed. The ministry must know better than I what Ontario Hydro's contribution to pollution is, especially in the Toronto area. I am convinced that the ultimate long-term source of fuel for the generation of electricity will have to be coal. I think anyone who knows anything of the sources of energy must realize that coal is going to have to be reverted to as the ultimate long-term solution in supplying electrical energy. I do not believe that Ontario Hydro is working hard enough, nor do they appear to be interested enough in developing methods of burning coal that will result in less air pollution. To turn to other fuels, such as coal, oil and gas is not the final solution. We cannot afford to use up one source of energy to make electricity to do a job which could have been done by oil or gas in the first place. The world supply of these energy sources is not unlimited. Better and cleaner methods of burning coal must be developed by Ontario Hydro.

Finally, Madam Chairman, we must develop the concept in environmental rights, so that every person in Ontario is entitled to clean air to breathe, clean water to drink and an attractive and healthy environment in which to live.

**Madam Chairman:** Thank you, Mr. Good.

**Mr. Martel:** Is that all?

**Madam Chairman:** The spokesman for the New Democratic Party, Mr. Martel.

**Mr. Martel:** No, no.

**Madam Chairman:** Are you the spokesman for the—

**Mr. Martel:** No, my friend, Mr. Burr.



**Madam Chairman:** Mr. Burr, fine. Will you please proceed, Mr. Burr?

**Mr. Burr:** Madam Chairman, in leading off for the New Democratic Party in the estimates of the Ministry of the Environment, I wish to speak mostly in general terms, rather than about such solid subjects as waste management or such ethereal topics as air pollution, and I wish to do so without repeating what I have said on previous occasions.

I shall start by quoting a part of a paragraph from *Alternatives*, a Trent University quarterly. The winter issue of 1972-1973, on page 17, lists what it calls the eight crises that have arisen from modern technological progress.

All of these, of course, have changed man's environment immensely over the last two centuries. I now quote:

These crises erupt in terms of:

1. The rapidity of technological and social change and their possible deleterious effects on human life.

2. The social and economic costs of population growth.

3. The depopulation of the countryside and the removal of most men from direct and constant access to nature.

4. The development of megalopolitan areas of often rootless and alienated human beings.

5. The rise of what some have called the "mass" society, which represents a loss of community and an enhanced apathy.

6. The rapid depletion of natural resources which will become particularly acute by the 21st century.

7. The stimulation of human desires by the kind of culture usually associated with industrialism.

8. Failure to solve the problem of distribution within industrial societies and particularly as between industrialized and non-industrialized nations.

Now the first five crises all bring into focus the deterioration of the social quality of life for large numbers of people despite a superficial affluence and higher standards of living for a large number of people in a material sense. These are all crises of somewhat greater interest to sociologists and philosophers than to us environmentalists, Mr. Minister.

Let us look back however for a moment at crisis 2 mentioned above: "The social and economic cost of population growth." Everyone readily agrees that India and China are

overpopulated. Most people agree that North America has too many people, but not everyone. If you notice the few people who will argue that Canada or Ontario or their own community has not enough people are the ones whose livelihood depends on an expanding market. Housebuilders are usually the most vociferous.

Sociologists, psychologists, psychiatrists and others associated with the field of mental health know the harmful effects of overcrowding upon large numbers of human beings, especially those who cannot escape occasionally to a place of solitude. If it were not a matter of personal profit, a matter of money, a matter of economic self-interest or even economic survival, all would probably agree that there must be a limit to human population.

Point 6: The sixth crisis—that is "the rapid depletion of natural resources, which will become particularly acute by the 21st century"—is a crisis for which politicians must bear the ultimate responsibility. Left to the decisions of private enterprise, the unrenowable resources of the earth will be exhausted as rapidly as technology can bring this about.

Only conservation-minded governments, impervious to private pressures, can retard this depletion. Governments controlled or easily influenced by private exploiters of natural resources are helpless to cope with this crisis. Only public ownership of our unrenowable natural resources can stem their rapid depletion. Private companies by their very nature are dedicated to their rapid exploitation.

**Mr. Martel:** Right on!

**Mr. Burr:** The eighth crisis—the failure to solve the problem of distribution of wealth within industrial societies and particularly between industrialized and non-industrialized nations—

**Mr. J. H. Jessiman (Fort William):** We are a little off the track, Madam Chairman.

**Mr. Burr:** —is of course a crisis on which politicians at all levels, including the international, should be working at all times.

How does the Ministry of the Environment relate to these crises? It seems to me that the role of this ministry—with respect, Mr. Minister—is like that of a housewife in a male chauvinist family that has just taken over a dirty household. It has little or no say in the social, moral or economic decisions of Ontario—that's the household. Its job is to get

the house clean and then keep it that way. The boss of this household—the Premier (Mr. Davis), or perhaps the Provincial Secretary for Resources Development (Mr. Lawrence)—seems quite satisfied with the work of this ministry. In fact, the Premier displays on his car the slogan, “Keep Ontario Beautiful.” We all do. The slogan should be, “Get Ontario Beautiful.” And after this has been done, with all the auto wrecks that litter the countryside removed—

**Mr. Good:** There are 300,000.

**Mr. Burr:** —after our rivers and lakes have been restored to purity; after the air in all our urban centres becomes fit to breathe, then would have been the time to bring out this self-congratulatory slogan, “Keep Ontario Beautiful.”

**Mr. Martel:** This is not a keynote slogan.

**Mr. F. Laughren (Nickel Belt):** It's smug; it is a very smug slogan. The member for Fort William wouldn't understand that.

Interjection by an hon. member.

**Mr. Laughren:** He obviously doesn't understand it.

**Mr. Burr:** The ministry then, like a good housewife—

**Mr. Carruthers:** What estimates are we on?

**Mr. Martel:** It is over your head.

**Madam Chairman:** Order please!

**Mr. Martel:** Would you like to go to the polls tomorrow?

**Mr. R. K. McNeil (Elgin):** Any time you care to.

**Mr. Martel:** After that tax—

**Mr. Burr:** Madam Chairman, as I was saying before I stopped for a drink of water—

**Madam Chairman:** Order, please! Let Mr. Burr continue.

**Mr. Burr:** The ministry then, like a good housewife, is concerned with finding the best methods of getting our household, Ontario, clean and keeping it that way. Nevertheless, if the head of the house is a spendthrift and shows signs of running through the family's limited resources because he believes in unlimited economic growth, the housewife, if she has any self-respect and initiative at all, must take a stand and oppose the extra-

gance, recommending that he, the boss, the husband, consider other ways and means where possible.

I refer to such things as waste management, where the making of electricity from garbage, the recycling of discarded metals, the re-use of discarded paper, the recycling of sewage into fertilizer and many other things are all being considered and in some cases already being implemented. I refer also to the recycling of human and animal wastes into methane gas as well as fertilizers, with methane gas to be used as a form of energy that would enable fossil fuels to be conserved. Over 2,000 small methane gas plants are now in use in India, which in many areas has used up almost all its wood supply.

I refer also to the harnessing of that free, unlimited, self-renewing source of energy, the wind, as another means of conserving Ontario's limited fossil fuel resources. I suppose what I'm trying to tell the minister is that he should not be content to be a routine, unappreciated housewife, but to join women's lib.

**Mr. Laughren:** Right!

**Mr. Burr:** Keep the house clean, of course, but show—

**Hon. Mr. Auld:** I thought that looked pretty good.

**Mr. Burr:** —but show that male chauvinist head of the house that you have brains, gumption and initiative. Show him that you can find better ways of running the house—

**Mr. Laughren:** Show up your backbenchers too.

**Mr. Burr:** —and can save us from running short of the wherewithal—that is, our natural resources—to keep the household well supplied and clean or, as the minister said a few moments ago, to provide the basic amenities.

I was prompted to give a new example of what I mean by a recent weekly release of the Lake Erie District Forester of the Ministry of Natural Resources. It is written by E. F. Johnston and is entitled “Home Cure for Energy Crisis.” And I quote:

The fuel shortages which occur from time to time during cold waves, ice storms and power failures, can all be cured with an old fashioned home remedy, fuel wood. This source of heat was rejected as being inconvenient, labour intensive and uneconomical during the Fifties and we have become almost totally reliant on fuel oil, gas, coal or electricity, which is usually



based on the previous three. These fuels have one thing in common, they are all non-renewable.

As supplies become more critical, there will be an ever-increasing demand for wood to meet the local and short-term needs. The wood lot supplied the fuel of North American for many years and with proper management can go on producing in perpetuity. The best use of fuel wood is to supplement the other sources of heat during periods of shortage or failure of supply.

There are new furnaces on the market which will utilize oil or gas in one fire pot and coal, paper or wood in an adjoining chamber. The home fireplace, which is mostly for recreational benefit, may also double as a heating unit during emergencies. Wood will produce heat even without electricity to drive fans or cause ignition in a firepot. The exhaust gases from burning wood are less toxic than other forms since they are composed primarily of water and hydrocarbons, which are already common in the atmosphere.

Securing a supply of fuel wood can be a pleasant recreational activity for the entire family. If you are the regular outdoor type and own a chain saw, you may wish to purchase several fuel wood trees from a woodlot owner and cut up the trunk and branches into fireplace lengths. There are many variations to this, such as using the home utility trailer to pick up cut wood from a supplier, slabs from a local sawmill or even wood products from the local winter works programme.

In all instances, the first step is to obtain permission from the landowner.

An emergency supply of fuel wood in the garage can give you a very secure feeling when the lack of heat threatens to drive your neighbours from their homes. A cord of fireplace wood, 16 in. in length, of maple, beech or oak will provide as much heat as 66 gal of fuel oil or 600 lb of the best hard coal. Two other benefits are that fuel wood can be produced from thinnings and the product is renewable for eternity.

That's one of the homey messages sent out by the Natural Resources ministry over the past few years. This one was on March 9 of this year.

What interested me particularly is the fact that the Intersociety Energy Conversion Engineering Conference, held in San Diego near the end of September, 1972, agreed with what Mr. Johnston says, not just for the individual

householder, but for everybody. At this conference, the "energy plantation" idea was outlined in considerable detail.

The energy plantation is a way of producing electricity cheaply in terms of dollars and cents without reducing the earth's supply of fossil fuels. Put simply, a forest area of between 112 and 630 square miles can provide indefinitely the wood to fuel a 1,000 megawatt steam electric plant indefinitely. According to its advocates, the capital cost of building a wood-fired steam electric plant would be approximately the same as for an ordinary fossil fuel power plant. Maintenance costs would be approximately the same.

Studies already made indicate that wood fuel costs would be no higher at the worst and considerably lower under ordinary conditions. Other advantages: 1. The energy plantation forest would be reforested as the wood was harvested. Therefore, the fuel supply would be constantly replenished. This advantage would far outweigh any disadvantages, if there are any. As yet, none seems to have been suggested.

2. Wood, unlike coal, contains virtually no sulphur. Therefore, sulphur oxide pollution is virtually nil. Madam Chairman, the proponents do not mention how serious are the pollutants, hydrocarbons and nitrogen oxides. This may be one disadvantage, but perhaps they could be controlled in the stacks.

3. Maintenance of the forest means retention of water—which is desirable—and reduction of land erosion—which is desirable—as well as recreation for humans and a secure habitat for wildlife—both of which are desirable.

4. There is no problem in disposing of residue. Wood ashes, unlike coal ashes, can be returned to the forest floor as fertilizer. Nuclear power plants, on the other hand, present the problem, as yet unsolved, of disposing of radioactive wastes, in indefinite isolation from the environment. The energy plantation offers Ontario a suitable alternative source of electric power which should be investigated at once.

Those are my opening remarks, Madam Chairman. As the various votes come along, I hope we will have some interesting questions to ask.

**Madam Chairman:** Thank you, Mr. Burr. Mr. Minister, do you have any comment at this point?

**Hon. Mr. Auld:** Madam Chairman, there is only one thing I wanted to comment on in relation to Mr. Good's question about the



environmental council. I don't think perhaps you want to get into a great deal of philosophy at this point. It will probably develop as we get into the specific estimates. I can't, without looking it up, quote the occasions but several times in the House when I have been asked what we were doing about setting up the environmental council, I have said in essence that, from the time the legislation was passed providing for one, we have been in a pretty rapidly changing field. We are looking at the function of an environmental council as something that might be a little more operative, as mentioned in the Speech from the Throne. Also on the other side of the coin, to provide something a little more specific, because my own opinion is that in the fields in which environment operates, and there are many pretty specialized ones, I think that we need something or perhaps a number of groups in an advisory capacity that would deal with more specific things rather than the environment in general.

I say this partly because of what I consider to be really excellent work done by the Pesticides Advisory Council. Without being specific at this point in time because of amendments that I expect to bring into the Environmental Protection Act, I simply say that we have been rethinking this a bit. It may well be that there is a comparable but different series of more specific approaches. The solid waste field is one. In talking to the chairman of the solid waste task force and some of the members of the working groups, it seems to me that we need in some of these fields a series of groups that can be of great assistance.

The government of Canada set up an environmental council. I have talked to the chairman of that group, Dr. Porter. They are working in perhaps a broader and a more general field, but I think as a province we have to deal with some more specific things in a positive way rather than a long-term philosophical way. I guess what I am trying to say is that in the session that is now in progress I expect to have some amendments to the Environmental Protection Act that may spell out our thinking a little more definitely than I can do at this moment.

**Mr. Good:** You must have had something in mind with the Throne Speech declaration of the environmental protection agency. What specifically do you have?

**Hon. Mr. Auld:** Well, of course, as we all know, the legislation will be introduced in the House and that's when we will know what it is.

**Mr. Good:** Regarding the environmental protection agency?

**Hon. Mr. Auld:** Regarding this general field.

**Mr. Good:** Oh, fine, all right, but we can expect legislation then to deal with the Throne Speech declaration about the environmental protection agency?

**Mr. Martel:** You are going to have some teeth in the legislation?

**Hon. Mr. Auld:** I have been in St. Louis, as a matter of fact. While the Union Electric project may have started in somebody's mind six years ago, it has only been operative for—?

**Mr. Good:** A little over a year.

**Hon. Mr. Auld:** Two years?

**Mr. Good:** Yes.

**Hon. Mr. Auld:** And there are some different problems there technically.

**Mr. Good:** That is a different thing. It takes six years to develop some of these ideas. You are starting to get going on a few ideas now that should have been—

**Hon. Mr. Auld:** We have only been in business in some of these fields for two years and some of them five, so we are doing better.

**Mr. Good:** You have been talking about them as long as I have been in the House; for six years.

**Mrs. M. Campbell (St. George):** Madam Chairman, could I ask a general question on this point? Some years ago there was a proposal from Mr. Bremner, of the city of Toronto, to this government for the setting up of a co-operative team effort for cities particularly and the government, in which the city was to participate. It had an organizational chart, it had the aims and objectives very well spelled out, and this government didn't even respond to it. Do you know anything about it or why there wasn't concern then?

**Hon. Mr. Auld:** What was it about, Mrs. Campbell?

**Mrs. Campbell:** About the matter of environmental control so far as municipalities were concerned. He set it up with the city funding it in part with the province in order to first of all look at some of the problems and to resolve some of the problems which

were very materially bothering the municipalities back several years ago. Why does it take so long for us here to get going?

**Hon. Mr. Auld:** I don't know, because I wasn't involved in this field and—

**Mrs. Campbell:** Have you ever seen it?

**Hon. Mr. Auld:** No, and I am wondering, environment is a pretty all-encompassing term. Was it in the field of air or water or noise or—

**Mrs. Campbell:** It was basically in the field of air and water—there was some touching on soil but not very much—for a municipality.

**Hon. Mr. Auld:** Mr. Caverly, who at that time was general manager of the OWRC, says that he is not aware of anything in the water end. I can check on that, but it may have had something to do with setting up the air management branch in what was then Energy and Resources Management, because, as I recall, Toronto had an air quality programme—

**Mrs. Campbell:** Oh, we have had air pollution control for a long time supposedly.

**Hon. Mr. Auld:** —but they found it was a little too much for the city to deal with and I guess that is when we got into the air business. I will see what I can find out.

**Mrs. Campbell:** He set up the aims and objects, he set up the personnel, he set up the organization, and the answer from the province was "We will look at it." That is the last we ever heard of it. I wonder why it would take so long to get concerned about the problems of the environment in a municipal setting. But if you don't know, if you will look at it I would appreciate it.

**Hon. Mr. Auld:** I will. I would say, though, from my own experience that municipal and provincial and perhaps federal people were more concerned about the pollution aspects of the environment than many of the voters were six or seven years ago. I know from my own experience that the Ontario Water Resources Commission was not that popular when it went around telling municipalities that—

**Mrs. Campbell:** It wasn't doing that much. It had very little opportunity.

**Hon. Mr. Auld:** I wouldn't quite agree with that. I had some experience in my own riding with an order—

**Mrs. Campbell:** We did too with Newmarket.

**Hon. Mr. Auld:** —of the OWRC that wasn't very popular. Today it is 180 degrees around and people have, fortunately I think, become more conscious of some of these problems. So governments, if they do what people want, hopefully do them a little before everybody knows they want them but not too much before; that seems to be the history.

**Mr. Burr:** Madam Chairman—

**Mr. Martel:** You have got to be kidding.

**Hon. Mr. Auld:** No, I don't think so. I have been a member since 1954 and as I say I can remember when the OWRC was highly unpopular in parts of this province when it said sewage plants had to be put in.

**Mrs. Campbell:** Usually because it was telling the larger municipalities that it was their responsibility to service other areas. That made them unpopular as all get out.

**Hon. Mr. Auld:** No, when they told the smaller areas they had to do it themselves, they were equally unpopular.

**Madam Chairman:** Thank you, Mr. Minister. We will turn now to page R30, vote 1801, item 1.

**Mr. Burr:** Madam Chairman, to pursue the area of the environmental council, my concept of the council was perhaps not the same as the minister's but I would like to find out whether it was or not.

In the Ministry of the Environment we have all kinds of specialists. In the waste management branch, we have specialists who work on the problems of recycling paper, those who work with metals, others with glass, and those who are concerned with sewage and garbage. In the area of noise control, we have specialists who are working on the legislation aspect and others who are working on the technical aspects.

It seems to me that unless you are over-staffed, you have very few people who have time to sit down and take a broad look at the whole environment.

My idea of the environmental council was that it should be a group representative of the various disciplines who would come together occasionally as a kind of brainstorming group or think tank. It would come up with ideas that the ministry had overlooked or wasn't considering and bring those ideas



to the attention of the ministry and the various officials of the ministry.

Generally speaking, that was my idea of this council. Did the minister have some other idea?

**Hon. Mr. Auld:** To give you a nice clear answer, yes and no. I think there are specific problem areas that require a good deal of technical expertise and some economic knowledge. Rather than a broad group of 10, 12 or 15 people that would discuss problems but wouldn't have all the technical expertise to assist us—I agree with you that our staff is very busy and we don't have time to sit around and philosophize—perhaps the approach should be something along the lines of the pesticides group, which consists entirely of specialists. I read out the list of the people and the disciplines involved, and I think it is a very good group. It deals with a specific field just as—

**Mr. Good:** At those per diem rates, they'll get together and work too!

**Hon. Mr. Auld:** Well, they come when needed and they are very good. I don't think they are overpaid—and they don't meet every day.

Solid waste is a field by itself, and we have got to find out what industry can use, where they can use it, what is possible in terms of collection and reclamation and what will work in one area that won't work in another.

We really need some advisory groups that are specialized in these fields rather than one overall group. Just from a year's experience, that's my own assessment.

Madam Chairman, just before we get into the detailed votes, I thought I might make a couple of comments because of some of the differences you will find throughout the various votes. First of all, you will notice a considerable decrease in the main office and the reason for that is, if you will recall last year, we had a bit of an argument about getting into all of Hydro. In last year's estimates there was an amount of \$23 million in main office, which was the provincial contribution to the capital cost of the Pickering plant. That is not here this year. That was, I guess, the last of three payments that were made.

In all the estimates for salaries you will see roughly a seven per cent increase plus a very significant upward adjustment in employee benefits which we had been underestimating, partly, and partly because of unemployment insurance for which the pro-

vincial contribution is now included. You will see in pretty well every one of the items a considerable difference in employee benefits this year as opposed to last year even though the number of staff is roughly the same.

**Mr. Good:** On that point, I understand the civil service superannuation fund is subsidized by the province. Is that charged back against the department for your employees?

**Hon. Mr. Auld:** It now is. The provincial contribution used to be shown in Treasury some years ago. I think it was two years ago. Where is Andre? Come up here, I need you.

Was it two years ago that the provincial share of the contribution to the civil service superannuation fund was allotted to the various ministries?

**Mr. A. Castel (Management Reporting):** It is now. There has been an adjustment in employee benefits and it is now charged back to the individual ministries. The estimate is based on approximately 10 per cent of the salary figure. This is an estimate. It works out roughly to 9.6 per cent for regular staff and 1.4 per cent for casual staff. We have re-adjusted our employee benefits to reflect this percentage.

**Mr. Martel:** On this point if I might, Mr. Minister, what portion of employee benefits goes to part-time employees? This government is going to have some accounting to do with what it does with casual or part-time employees. Your ministry is not as bad as Natural Resources, mind you, over this practice of hiring people when, in fact, they do not have a variety of benefits.

I know that in the Ministry of Natural Resources this can go on year after year, for 20 or 25 years. Have you had any part-time staff with you for, let's say, two or three years who haven't quite made the grade and become part of the full-time staff?

**Hon. Mr. Auld:** We had approximately 50 whom we inherited, I guess, from the Ministry of Health, who were in the private waste field and hadn't got on to the permanent staff. Some of them, I think, were there for up to three years. We got that sorted out about two months ago.

**Mr. Martel:** You still have some secretarial help in that position, do you not? Part-time secretarial help?

**Hon. Mr. Auld:** I would say we have for supply purposes but not for any length of time. Two or three months would be the maximum, wouldn't it?



**Mr. Castel:** We have recently regularized 51 from private waste and water management. We do have certain casual employees, secretarial and clerical staff. However, the practice now is to employ casuals for a period of six months or a period not to exceed six months. This is the practice at the present time. Now we do have some casuals. In the past we had some casuals and we are trying to regularize this.

**Mr. Martel:** There seems to me to be an unjust situation. As I say, your ministry is not nearly as bad as the Ministry of Natural Resources but it seems to me that the government of all people has to rationalize this. If government doesn't lead as an example in employing part-time people so that they derive all the benefits which are available to the full-time people, how in God's name can we expect the private sector to do anything?

**Hon. Mr. Auld:** I don't think my estimates are the time to get into the philosophy of it but there are many seasonal operations, like highways and winter maintenance, when, I guess, they about double their patrol staff, but you can't plough snow in the summer.

**Mr. Martel:** But there has got to be a lead. Industry at one time had that philosophy, too, until, through the collective bargaining process—I guess it came out of some of the auto plants—they had to rationalize. I think there is an onus on government to rationalize it in some fashion so that all the people it has are, in fact, deriving all of the benefits which are available.

To keep people on a part-time basis for two or three years—in the Ministry of Natural Resources for 20 years—so they don't have pension rights or anything is just a little much. I think government has got to set the example if we expect the private sector to behave in a proper corporate manner. The government must lead and not follow.

**Hon. Mr. Auld:** As I say, I don't want to get—

**Mr. Martel:** No, I don't want to get it broken down. It's not really fundamental to these estimates, which deal with the environment itself. But I just simply present it to you, Mr. Minister, to keep under your hat and on the proper occasion use it, because it seemed to me to be the only thing to do with the special employees of the Crown.

**Madam Chairman:** Can we just lift the element of discussion on these details while the minister sets forward for us the points

that he thinks are of special interest that he's outlining? Could we just let him do that?

**Hon. Mr. Auld:** I think, Madam Chairman, those were the only sort of general points I thought I might mention because you will find them throughout the various votes.

**Mr. Burr:** Madam Chairman, would the minister explain just what strategic planning is? That sounds like a very good title for what I had in mind as the function of the environmental council to attend to the overall—

**Madam Chairman:** Right, well I'd like item 1 first please, Mr. Burr. We'll start with vote 1801, item 1, the main office.

Is there any comment or question on main office?

On vote 1801:

**Mr. Martel:** I have one question.

**Mr. T. A. Wardle (Beaches-Woodbine):** Madam Chairman, may I ask the minister how many additional employees there are in the complete ministry this year over last year?

**Hon. Mr. Auld:** Well, talking about complement, there are the 51 we just mentioned who are in the private waste field.

**Mr. Wardle:** Right!

**Hon. Mr. Auld:** There are 17—just a minute and I'll give you the total.

**Mr. Wardle:** Right!

**Hon. Mr. Auld:** Roughly 500—

**Mr. Good:** Excuse me, Madam Chairman, under what vote—

**Hon. Mr. Auld:** —who have been transferred to civil service from public service, who were employees of the Ontario Water Resources Commission and operators of the plants that I mentioned in my opening remarks.

**Mr. Wardle:** Right! They've all come now into your ministry.

**Hon. Mr. Auld:** There is a net total of 132, I'm informed.

Here we are. The total as of April 1, 1972, was 1,264. The total as of March 31, 1973, was 1,679, but there is a practical increase of 132.

**Mr. Wardle:** Right!

**Hon. Mr. Auld:** Don't add that up without the other remarks.

**Madam Chairman:** Anything further on item 1?

**Mr. Martel:** Madam Chairman, I would like to ask the minister to discuss directives which might be sent out from his department in relationship to projects which he has funded—any variety of projects?

**Hon. Mr. Auld:** No, I would say, Madam Chairman, if it's an air project discuss it under air and if it's a water project—

**Mr. Martel:** No, just in relationship to all projects as the result of the directive which was sent out. It bothers me to know what you sent. I wasn't supposed to see it.

**Hon. Mr. Auld:** We always send you our files. You know that.

**Mr. Martel:** No, you didn't send this one. But I got hold of it. It was a directive sent out to all those people who are, in any way, shape or form, involved in doing R and D for the department and the directive—and I haven't got it with me, but I'll bring it on Thursday. I was afraid of the Watergate system and I hid it. I've hidden it so well I can't find it.

**Hon. Mr. Auld:** Well, tell me what it is and I'll get you a copy.

**Mr. Martel:** Well, that's what I'm coming to. It's a directive sent out to all people doing any R and D for you people that they were not, under any circumstances, to give any information to the media or so forth with respect to their research until it was cleared by your department.

**Hon. Mr. Auld:** Was this in the total R and D or was it in orders, or—

**Mr. Martel:** Special projects funded by the government, by your department through university works—and so forth. I'll bring it in.

**Hon. Mr. Auld:** I would say that it might be possible because I always like to know, before you ask me in the House, what somebody has just been doing.

**Mr. Martel:** But do you know what bothers me about that type of directive?

**Hon. Mr. Auld:** If we're paying for it I'd like to hear about it first.

**Mr. Martel:** Yes, I can appreciate that, but it was if these people from the universities

and so forth—who are doing very responsible work—were going to act like a bunch of schoolboys and run out and spill the beans. We're talking about a very responsible group of people in society. In fact, before me I have an article where one of those people rejected your \$5,000 and said:

If that's the string attached to it, keep it. I don't want it. It's too stringent and too childish for me to be involved in that sort of nonsense.

**Hon. Mr. Auld:** I'll see if I can find the directive before you do.

**Mr. Martel:** Oh, I'll find it. I'll find it to quote it, but I thought it might come up under the first estimates in head office. I was just taken aback a little by the department's suggestion that they would have to give approval, because, in fact, you're not really interested in resolving this. If it's good substantial stuff with meat in it that's going to support the government, then it can get clearance and be publicized. But, conversely, if it's stuff that might just embarrass the government a little bit, there is a tendency to hide it. I'm not suggesting this minister would, but there is a tendency.

**Hon. Mr. Auld:** I can tell you this, that my belief is you can't hide anything. I'd just like to know about it the same time you do.

**Mr. Martel:** We could get it the same time. It's the principle involved that bothers me. Let's say we have a different type of minister. We've had them in the past, occupying that chair, who kept information and guarded it.

**Madam Chairman:** Mr. Martel, you know this isn't really on the subject. The minister has told you. So, suppose we stick to the subject of main office. Is there any other subject or are there any other points you want to raise?

**Mr. Martel:** Where else would I discuss the head office, but in the head office vote?

**Madam Chairman:** Right.

**Mr. Good:** What are the services under head office?

**Madam Chairman:** Pardon? What are the what?

**Mr. Good:** Services.

**Mr. Burr:** Under sub-item 4.

**Mr. Martel:** How did we get down to 4? I was still on 1.

**Mr. Good:** Services, Mr. Minister.

**Madam Chairman:** I assume you mean item 6, Mr. Good?

**Mr. Good:** Under main office.

**Mr. Burr:** The fourth sub-item under main office, \$90,000 for services.

**Madam Chairman:** I'm sorry.

**Hon. Mr. Auld:** On item 1, services, that is the Environmental Hearing Board, which didn't exist a year ago. That is roughly about \$40,000. Part of it is per diem and part of it is travelling.

**Mr. Good:** But the whole \$90,000 is related to the Environmental Hearing Board?

**Mr. Martel:** Travelling by plane?

**Hon. Mr. Auld:** Only if they really have to, and I don't know that they have ever travelled by plane. I have never travelled with them by plane.

**Mr. Martel:** I have no objection to their travelling by plane. I think it makes a lot of sense.

**Hon. Mr. Auld:** The reason for this is that previously the Ontario Water Resources Commission used to hold hearings about waterworks and sewage plants, but it no longer exists. The vote is in the main office and the board now spends a good deal of time also on landfill sites or waste disposal sites.

**Mr. Good:** Is this the only place in which we discuss the Environmental Hearing Board? Well, it's very fortunate that I hit it.

**Hon. Mr. Auld:** Fire away!

**Mr. Good:** They hold hearings before you give a permit. As yet, no decision has been reached about the hearing held regarding the permit for the 1,300 acres in Pickering township by Metro council. The hearing has been held, but the permit has not been issued as yet.

**Hon. Mr. Auld:** What happens is that the board advertises and holds a hearing.

**Mr. Good:** And makes a recommendation to you.

**Hon. Mr. Auld:** People come and either support or oppose. The board makes a recommendation to the executive director. The

director takes that into consideration and then he either accepts their recommendation or does not or sets extra conditions if approval is granted. If there is an appeal from the director's decision on a basis of fact, it comes to the minister. If it is on a basis of law, it goes to the courts. The board does not decide; it simply recommends.

**Mr. Good:** Yes, I knew that.

**Hon. Mr. Auld:** To my knowledge, at the present time, the board has not yet recommended. There were three sites, actually, at Pickering. I think two of them were side by side; I don't know why they are two separate sites but apparently they are. The other is somewhat removed from them.

The last I heard from the chairman was that they had 800 pages of transcript and they were having to get supply stenographers in to type it all. It was going to take them a little time to get all the comments and once they got that, the board would have a hearing. I guess the chairman has absented himself or taken himself out of the hearing.

**Mr. Good:** Out of the hearing because of the controversy over whether or not he had indicated to a reporter in Minto township area that there will be no problem in getting a permit for the Pickering township, as though his mind had already been made up. Which brings up the point that we can get the information here.

What is the per diem rate for the members of the board and the chairman of the board? Are they paid only when hearings are held or are they employed on an ongoing nature?

**Hon. Mr. Auld:** What is the per diem for the members?

**Mr. Castel:** It depends on the number of meetings. There is a scale and normally it is \$110 for the chairman and \$85 for the members. It depends on the number of meetings. If it is more than 20 meetings per annum the rate changes.

**Mr. Good:** Up or down?

**Mr. Burr:** Up or down?

**Mr. Castel:** Down. There is a scale actually, but roughly it is \$110 for the chairman and \$85 for the members.

**Mr. Martel:** That's rough!

**Mr. J. F. Foulds (Port Arthur):** How many hearings did they have last year?



Hon. Mr. Auld: That I couldn't tell you. It wasn't until the fall that they started.

Mr. Martel: It must be a struggle surviving on that committee.

Mr. Castel: Thirty-two.

Hon. Mr. Auld: Thirty-two hearings.

Mr. Good: Thirty-two hearings?

Hon. Mr. Auld: It wasn't until the fall that they really got into the waste disposal end.

Mr. H. C. Parrott (Oxford): Is that an appeal board?

Hon. Mr. Auld: No.

Mr. Parrott: It is not an appeal board?

Hon. Mr. Auld: No, it is a hearing board with authority to recommend.

Mr. Parrott: Who refers the problem to it?

Hon. Mr. Auld: Some of it is mandatory. All of it is mandatory as far as sewage plants are concerned. In the case of private waste disposal sites, if it's the waste from more than 1,500 people, there has to be a hearing; if it is less than that the ministry can direct a hearing.

Mr. Parrott: Is there an appeal from that board?

Hon. Mr. Auld: Yes.

Mr. Parrott: Who to? To you?

Hon. Mr. Auld: That is correct.

Mr. Good: If there are no objectors to a municipal waste site—I've forgotten this—would there be a hearing or not?

Hon. Mr. Auld: If it is for more than 1,500 people there would be, and if it is for less there doesn't have to be.

Mr. Good: Pursuing this a little further, the information on which the board decides what its recommendation will be to the minister—

Hon. Mr. Auld: No, to the director.

Mr. Good: I'm sorry, to the director; yes that's right. This information includes all of the technical data that has to be collected prior to the hearing as to whether it is a suitable site—the test holes and the drill holes?

Hon. Mr. Auld: No, the board is more interested in the aesthetics and so on. The technical part is done by our own people. For instance, even if the board were to recom-

mend that a site is suitable we could well say it is suitable but only if certain things are done to make sure. The technical part has to do with, first of all—

An hon. member: Spear holes.

Hon. Mr. Auld: —leaching into water courses or into ground water and stuff like that; the methods of operation depending on the volume that would be handled and how often it had to be covered.

Mr. Good: None of this information is given to the board?

Hon. Mr. Auld: No. That is given to the board because a member of our staff attends to answer those kinds of questions from the people who appear.

Mr. Good: I understand that getting these test holes done and getting in the soil people had to be at the expense of the municipalities.

Hon. Mr. Auld: At the expense of the developer.

Mr. Good: Prior to the hearing?

Hon. Mr. Auld: The developer, whether it be a municipality or, as in many cases, a private operator, has to assemble technical data which we specify—water tables, type of soil and that sort of thing. We may accept what he produces, we may ask for further tests, we may even require certain things to be done, but this is at the expense of the person who wants to operate the site.

Mr. Good: This is all done before the hearing is held?

Hon. Mr. Auld: It may be done before the hearing or it might be done concurrently, in the case of something that requires a good deal of technical research and study. And it may well be as the result of the hearing that we might require further information from the developer.

Mr. D. S. Caverly (Assistant Deputy Minister): In the case of sewage works, the technical side of it is all sorted out before it goes to the hearing stage.

Hon. Mr. Auld: I guess I am thinking more of landfill, for some reason or other.

Mr. Good: Yes, that's what I was thinking of more too, yes.

Mr. Foulds: What other types of hearings do they conduct besides landfill sites and sewage?

**Hon. Mr. Auld:** Sewage works.

**Mr. Foulds:** Sewage works?

**Mr. Caverly:** The enlargement of sewage works, the extension of a sewer from one municipality to another, the location of a sewage works—when I say sewage works I mean sewage treatment plant—or the enlargement of a sewage treatment plant.

**Mr. Good:** Madam Chairman, to the minister again, I have difficulty understanding how the hearing board can make an intelligent recommendation without taking into account the results of the test holes and all the engineering work that has to be done. You mean just to say: "Yes, we think it is a good place, it's close to town and there is nobody living there, and as far as we're concerned it's okay if the technical aspects prove to be satisfactory," is that how it works?

**Hon. Mr. Auld:** They might, or they might say for all the same reasons, at least, on the same basis, that it is close to town, that it is economic, and it's technically feasible. They might say that it doesn't seem to be suitable because the proposer has not looked at a sufficient number of alternate proposals, that it is too close to an existing residential area, a whole host of rather subjective judgements.

**Mr. Good:** Yes, getting down to specifics, and maybe we shouldn't be discussing this, particularly when it's under discussion by the Environmental Hearing Board, but would they take into consideration such a fact that the application made by Metro for the Pickering township site includes the expropriation of certain private dwellings? Could the Environmental Hearing Board say, "Gad, we don't think that any landfill site should be licensed if it's going to mean the expropriation of private property," for example?

**Hon. Mr. Auld:** They could say that, yes.

**Mr. Good:** This could be a consideration.

**Mr. Caverly:** Let's take a sewage one for an example, getting away from the Metro scene. In the location of a sewage works, if they have to expropriate sufficient land for that works, they will look at it and ask, in taking this land, is it going to leave the farmer with a viable operation, or are they going to take the best part of his land away from him, or are they going to leave him with not enough land to carry on? These are the sort of things that they would be looking at. Also, do you want the sewage works in your locality?

**Hon. Mr. Auld:** And the unanimous answer is no.

**Mr. Good:** No.

**Mr. Parrott:** How many at a board hearing?

**Hon. Mr. Auld:** A minimum of three.

**Mr. Parrott:** And how many on the board?

**Hon. Mr. Auld:** Five.

**Mr. Parrott:** You can't have a full board there at the hearing?

**Hon. Mr. Auld:** They can do, yes, it would depend. In that sense, it's very much like the Municipal Board inasmuch as if it appears to be a routine application, the notices have been published and there have been no objections filed, or perhaps one or two, depending on their workload and so on and, frankly, the budget, I really don't think we need to send five people to something where there is probably no objection.

**Mr. Parrott:** It's very much unlike the OMB in the sense that they will have one or two members, and you will never have less than three.

**Hon. Mr. Auld:** No, we have never had less than three.

**Mr. Good:** Do only those men or ladies who are at the hearing enter into the decision as to the recommendation, or does the board in its entirety do that? Is there any legislation on that?

**Hon. Mr. Auld:** The board makes the recommendation. To my knowledge there has not been a case where a member of the board has made a single recommendation. If one member of the board goes, he gets a transcript; then the whole board looks at it and makes its recommendation.

**Madam Chairman:** Are there further questions on main office?

**Mr. Martel:** Madam Chairman, it being 10:30 of the clock, I move we adjourn.

**Hon. Mr. Auld:** Could we see whether we have accomplished item 1?

**Mr. Martel:** Well, I want to make sure, because Madam Chairman cut me off before we could discuss this item. I want to leave it open, Mr. Minister, just in case—

**Mr. Wardle:** Madam Chairman, could we give Mr. Martel that assurance and pass this first item?

Mr. Good: Let's accomplish something!

Mr. Wardle: Could we give the member that assurance and pass this first item tonight?

Hon. Mr. Auld: I can assure you that your directive does not come under this one.

Mr. Martel: Well, I just want to make sure of that. If I find that I have all day tomorrow, I'll turn my secretary loose on it.

Hon. Mr. Auld: Maybe I can find it before you do, and I'll bring it on Thursday too.

Mr. Martel: Well, I'll move we have some discussion on it.

Mr. Wardle: Madam Chairman, I will move the first item then.

Hon. Mr. Auld: It is probably under the last item, research.

Madam Chairman: Shall the item carry?

Carried.

The committee adjourned at 10:33 o'clock, p.m.

CONTENTS

Tuesday, May 22, 1973

Ministry administration programme .....	S-595
Adjournment .....	S-612





# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of the Environment**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Thursday, May 24, 1973**

**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)

## LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 24, 1973

The committee met at 3:15 o'clock, p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

### ESTIMATES, MINISTRY OF THE ENVIRONMENT (continued)

**Madam Chairman:** This meeting of the estimates committee will come to order.

On vote 1801:

**Madam Chairman:** We are at present on page R30, vote 1801, item 2—strategic planning. Are there any speakers?

**Mr. F. A. Burr** (Sandwich-Riverside): Madam Chairman, I would just like the minister to explain just exactly what strategic planning means.

**Mr. E. R. Good** (Waterloo North): That was the point I wanted to make. I think in view of the fact that one thing that appears, say, under vote 1, services, turns out to be the Environmental Hearing Board, and I'm sure you wouldn't expect anyone to be able to translate "services" into "Environmental Hearing Board," I would like to have the minister give a very brief explanation of each section as we go.

**Hon. J. A. C. Auld** (Minister of the Environment): Okay. With your permission, Madam Chairman, on strategic planning the activity objective is: to provide professional executive support related to management decision-making processes and special projects, and to co-ordinate the review and the verification of environmental impact assessment and translate it.

**Mr. Burr:** Yes. I was just going to ask you to translate it.

**Hon. Mr. Auld:** That means that we have adopted as a procedure within the ministry, doing an analysis of the environmental effect of our own water and sewage projects. We expect that we will expand this to other ministries within the government on sort of a methodology basis as we work out the methodology for major projects.

We also give sort of assistance to other ministries. As the hon. members are aware, the Ministry of Transportation and Communications now has started a programme of public meetings, information meetings and so on about its major projects. Ontario Hydro has developed a system along the same lines. This is a new branch which we set up last year and it's in sort of its experimental stage at the moment. I think that is the best way to put it.

I might mention that under services, \$105,000 is the estimated expenses for the Solandt commission that is looking at the hydro transmission-line project at the moment, \$48,000 is the environmental assessment programme and \$10,000 is for the finishing up of the James Bay Onakawana study.

**Madam Chairman:** Excuse me, just a moment. The Chair has omitted to announce the substitutions, I'm very sorry. I'm aware that Mr. Good is substituting for Mr. Worton and Mr. Burr is substituting for Mr. Deans. I apologize. Continue, Mr. Wardle.

**Mr. T. A. Wardle** (Beaches-Woodbine): Did the minister say "the James Bay project"?

**Hon. Mr. Auld:** Yes, that is the completion of it.

**Mr. J. W. Gilbert** (Director, Strategic Planning Branch): If I remember correctly it was \$56,000 last year.

**Hon. Mr. Auld:** Approximately \$56,000. It was started last year and the main work was done. This is to finish it up.

**Mr. D. S. Caverly** (Assistant Deputy Minister, Water Management): This is the Onakawana, not the Quebec Hydro.

**Mr. Wardle:** Oh, I know you are not involved in that.

**Mr. Caverly:** No.

**Mr. Wardle:** I suppose the minister is happy to be not involved in that Quebec project.



**Hon. Mr. Auld:** We are interested in it, from the long-term effects on James Bay.

**Mr. Good:** Do you want to discuss the Onakawana lignite deposits here, then?

**Hon. Mr. Auld:** Not really, inasmuch as I haven't seen the study yet because it isn't finished. We were doing it but it doesn't relate to us. It's more a matter of Hydro and energy—Natural Resources in that sense.

**Mr. Good:** But certainly the environmental implications of it would concern you?

**Hon. Mr. Auld:** That is why we were charged with the responsibility of doing the study and my deputy minister was chairman of the study group.

**Mr. Wardle:** Madam Chairman, the minister said he was interested in the Quebec James Bay project. What effect would either the moving forward of that project or the cancellation of that project have on that part of Ontario or indeed all of Ontario?

**Hon. Mr. Auld:** I really can't tell you because we are not sure what the effect, if any, will be if it continues as it appears to. But for instance, it may have an effect on water currents in James Bay, and a whole host of things that we are interested in and that Natural Resources are interested in.

**Mr. Wardle:** Madam Chairman, if that study this year produces some adverse effects as far as this province is concerned, would there still be time to make representation to Quebec province on the matter?

**Hon. Mr. Auld:** I really can't answer that because I don't know. If the project were complete and functioning, and five years from the completion there were some major deleterious effect, I really don't know whether it would be a legal matter or a matter of negotiation. I suppose it would really depend on what, if any, effects there were.

**Mr. Wardle:** Madam Chairman, may I ask the minister to give consideration to that with his officials to see, through the studies he is conducting now or has conducted, whether there is any effect on this province in an adverse way, and if so, that he would bring that to the attention of those studying the matter in Quebec?

**Hon. Mr. Auld:** We are concerned about this, but as I say, to my knowledge thus far, there hasn't been anything definitive.

**Mr. H. C. Parrott (Oxford):** Would the terms of reference for the study of the lignite operation include a post period, meaning that if the project did not succeed after some efforts to make it succeed, there would be some real environmental impact? Therefore I am asking, have the terms of reference given sufficient latitude to let them think about a post period to the project? That's a hypothetical question, I accept that, but nevertheless that might also be a determining factor if such—

**Hon. Mr. Auld:** You mean if a contractor went ahead using the lignite—

**Mr. Parrott:** If you went in and built your lines—

**Hon. Mr. Auld:** —either on the site or if it was shipped someplace else, and it was stopped halfway through?

**Mr. Parrott:** Yes. After a period of time it would have quite an effect upon the environment. You would have lines built or whatever. I am saying there are two sections. One is open to consideration until the time when it was done, in effect. That is far easier to see. But then if it goes along further, other complications would come into effect. Does that make sense?

**Hon. Mr. Auld:** I don't know.

**Mr. Good:** The rehabilitation of the area.

**Hon. Mr. Auld:** How close are we to getting a report?

**Mr. Gilbert:** The final report? As you are aware we put the interim report a couple of months back. We are waiting to produce the final report now. I am told that this will be when the feasibility studies have been completed by the consultant. That is supposed to be sometime in June or July.

**Hon. Mr. Auld:** It won't take long to complete the final report.

**Mr. Gilbert:** We should be able to very quickly after that.

**Hon. Mr. Auld:** And the point that you mention is being—

**Mr. Parrott:** Within the terms of reference.

**Hon. Mr. Auld:** —and has been considered.

**Mr. Parrott:** Good. Fine.

**Mr. Burr:** You have a staff of 20 persons now instead of the three that you were esti-

mating a year or so ago. What are all these 20 people doing that the information services are not doing? From what the minister said it seemed as if they were going to give out information and carry on some kind of dialogue with the public in explaining what is to be done. I assume the strategy is involved in explaining things to the public before the public gets the wrong ideas. How does it differ from information services?

**Hon. Mr. Auld:** How does it differ from which?

**Mr. Burr:** The information services branch down in item 4.

**Hon. Mr. Auld:** Information services includes the people who disseminate literature, who run the anti-litter advertising campaign and who have made several films on various activities of the ministry. They are, as the word says, an information disseminating organization. The strategic planning collects information—I suppose the best way I could put it is this: if they put out a report which is for general circulation, information services would distribute it and perhaps do whatever artwork was necessary. But the strategic planning branch is composed of the technical people in our end of the planning field.

**Mr. Good:** On the Solandt commission report—I am sorry I wasn't able to attend the hearings—is that left on the basis now that it was turned back to Hydro to find a more acceptable route, or is it definite?

**Hon. Mr. Auld:** No, the commission is still functioning. It has had a number of meetings. It has asked Hydro, as I understand it, to produce some alternatives.

**Mr. Good:** That's what I thought. Did the Environment Ministry representatives take any position that the corridor as designated in the Toronto-centred region plan should be utilized by Hydro? Or what did the Environment Ministry do?

**Hon. Mr. Auld:** No, because technically, at this point in time, our input would be about its effect on ground, water and air.

**Mr. Good:** The environment?

**Hon. Mr. Auld:** Well, no. Those parts of the environment for which we have legislative authority: air and water, and pesticides on land and so on. To oversimplify it, there is no deleterious effect on the land if you put a tower on it. It is not going to poison the grass or anything. We aren't in the aesthetic field at this point in time.

**Mr. Good:** You are talking like Hydro now. Certainly there is a deleterious effect on the environment depending on where the right of way goes. I mean I can guarantee that it has always been that the only way you can get power from here to there is in a straight line.

**Hon. Mr. Auld:** Hydro isn't doing that all the time now.

**Mr. Good:** No, I know. And I am glad to see this. Certainly I think representation from the Ministry of the Environment must be a big factor in getting Hydro to make these considerations—perhaps it is better that we spend a little more and bend our lines and go through areas where we don't have to cut swaths through standing timber. This has certainly got to be somewhere in your—

**Hon. Mr. Auld:** As I mentioned at the beginning—perhaps it was you who made reference to the Throne Speech, and the fact that we haven't appointed an environmental council. I mentioned that we have in the works proposed amendments to the Environmental Protection Act which may meet some of these problems. But I can't really say anything about them at the moment because they haven't gone through the process and been introduced in the House. But I hope to very shortly.

**Mr. Good:** So in other words, the Ministry of the Environment made no representation to the Solandt commission either for or against Hydro's original proposal?

**Mr. Gilbert:** No, we have given an informal input as the Solandt Commission has asked for it. We've made it aware of certain information that was made available. We have apprised the commission of some of our concerns in certain areas, but this has been an informal dialogue.

**Mr. Good:** Madam Chairman, to the minister, are there either no regulations or no registration to which the Ministry of the Environment can have an input into the aesthetics of Hydro's operation, whether it be power plant building or—

**Hon. Mr. Auld:** Not at the present time except for their thermal generating plants where the—

**Mr. Good:** That would be the air and water, yes.

**Hon. Mr. Auld:** —air and water are affected. Hydro is in the same position as any other industry in that regard.



**Mr. Burr:** I am still struggling with the strategic planning. Could you tell me what professions or what particular skills the people on this staff have? I don't want their names, but just what are their abilities and skills.

**Hon. Mr. Auld:** Mr. Gilbert is the director.

**Mr. Burr:** He should know then.

**Hon. Mr. Auld:** There are a lot of degrees around there, I know that.

**Mr. Gilbert:** It is a very much multi-disciplinary group. We have got two environmental economists. My own field is management science. I've got several geographers, a biologist, a systems analyst, a forester, an architect.

**Mr. Good:** A couple of lawyers?

**Mr. Gilbert:** Unfortunately, no. It covers quite a broad range of disciplines. Almost all of the people in the branch have two degrees and some of them have three or four.

**Mr. Burr:** Thank you.

**Mr. Caverly:** Mr. Burr, you might be interested in the official designation of this branch. It is: to provide professional executive support related to management decision-making processes and special projects, then to co-ordinate the review and verification of environmental impact assessment—

**Hon. Mr. Auld:** That's what I read the first time and then we had to get it translated.

**Mr. Caverly:** Strategic planning is not a good title for this branch and we are looking for a better one.

**Mr. Burr:** What would you suggest, just as an offhand paraphrase?

**Mr. Caverly:** I think environment assessment is going to be—we may not end up with that, but that is going to be one of their main functions. Maybe that describes it better than strategic planning.

**Mr. Burr:** Is it something like the United States system where projects have to be justified on the basis that they are not harming the ecology or the environmental system?

**Hon. Mr. Auld:** Not at this moment in time, because there is no legislative authority to do that.

**Mr. Burr:** No, but it is serving that function?

**Hon. Mr. Auld:** What we are doing within the ministry is evolving a methodology which we in turn will apply to our own projects, in the first instance, and we as the initiator of those projects must produce all this information. Then we expect to apply this in conjunction with other ministries on their projects where they produce the information. We indicate the information that has to be presented and then go over it and see that they haven't missed anything.

**Mr. Burr:** A form of self-criticism?

**Hon. Mr. Auld:** Yes, I suppose.

**Mr. Burr:** All right.

**Madam Chairman:** Are there any further questions? Does item 2 carry?

Item 2 agreed to.

Vote 1801, item 3, legal services. Mr. Minister, do you want to say anything?

**Mr. Good:** I have a couple of questions on that.

**Madam Chairman:** Do you want to add a little preamble to each section?

**Hon. Mr. Auld:** If you would like me to; that one is pretty well self-explanatory.

The legal services draw up our legislation in the first instance. They act as counsel to the ministry and appear on our behalf in court and before various tribunals and so on. They prepare and process regulations and orders in council; notices and orders relating to the enforcement and administration of the legislation. They give advice regarding agreements and contracts that the ministry enters into with municipalities and with contractors. They negotiate and settle claims arising out of construction contracts and generally give legal opinions.

**Mr. Good:** In this section, Mr. Minister, last year it was established that your own legal people do the prosecution under the air management section and also water management. There have been, I understand, two such instances. One we dealt with last year, out in Scarborough.

**Hon. Mr. Auld:** Canadian Gypsum?

**Mr. Good:** Canadian Gypsum, yes. Where it was indicated that the inexperience of the ministry and the lack of proper preparation of the case or the provision of the required samples led to the inability to convict. Now, recently—



**Hon. Mr. Auld:** Oh, that wasn't gypsum. That was glass.

**Mr. Good:** Oh, glass—fibreglass, that's right.

**Hon. Mr. Auld:** Pilkington Glass.

**Mr. Good:** Pilkington Glass, that's right. Recently there was reported—and I tried to find the clipping and I couldn't—but a question was asked in the Legislature the other day, about air management's case against Ford of Canada in Windsor. There, I believe, the judge publicly indicated that it was the lack of proper preparation of the case against Ford that resulted in the decision that was handed down.

Now, when your own legal staff are doing the prosecution why, when they are specialized, are these things happening?

**Hon. Mr. Auld:** I think somebody asked me about it last Tuesday. I haven't seen the transcript, but as I mentioned in the House the judge, for reasons best known to himself, did not assess the maximum fine. I really am in the same position; I still haven't seen a transcript to make any comment on it. But—

**Mr. Good:** Yes, but for a judge to publicly criticize the manner in which the prosecution handled the case.

**Hon. Mr. Auld:** The prosecution was successful because we got a conviction, but the question apparently was the amount of the fine. I really can't answer your question until I see the transcript.

**Mr. Burr:** Does the figure for salaries and wages represent one person?

**Hon. Mr. Auld:** Last year we had a complement of 12 and we paid them ourselves. Within the government most of the legal people in the various ministries are now transferred to the staff of the Attorney General (Mr. Bales) and seconded back to the ministries. So the big difference here is that last year the salaries and wages for the 12 were \$177,000 and services were zero. This year the salaries and wages are for that one person still on our staff—who is not a solicitor but the general counsel; that's Dr. Landis—services are what we pay to the Attorney General for the rest of the staff. They are physically with us—

**Mr. Good:** They are on an "as needed" basis, or they are with you all the time?

**Hon. Mr. Auld:** They are physically with us, I think, all the time.

**Mr. Burr:** Then that sum of \$10,000 for transportation and communications doesn't apply just to the one man, that applies to all of your legal people?

**Hon. Mr. Auld:** Yes. Actually, that one person is clerical. I think Dr. Landis is also on the complement of the Attorney General now, but he is still with us. Right?

**Mr. E. W. Martel** (Sudbury East): I wanted to thank you for that letter, because somebody was in my office and I hid it so well, but that was a great help.

**Hon. Mr. Auld:** I wanted to make sure you had it in lots of time.

**Mr. Martel:** Well, I appreciate that very much. How did you and the dentist fare, anyway?

**Hon. Mr. Auld:** Oh, very well. I saw two of them yesterday.

**Mr. Martel:** He won the battle, did he?

**Hon. Mr. Auld:** I got my tooth back in. My speech should be a little better today.

**Madam Chairman:** Mr. Martel, we're on vote 1801, item 3. Do you have any questions?

**Hon. Mr. Auld:** Legal services.

**Mr. Martel:** No, no. Thank you, Madam Chairman.

**Madam Chairman:** Shall item 3 carry?

Item 3 agreed to.

Item 4, information services.

**Mr. Martel,** is there anything you want to raise in connection with your letter?

**Mr. Martel:** Yes, that's release of information to the public. You don't want to discuss that now?

**Hon. Mr. Auld:** Well, that was from Dr. Tempelmeyer in the air management end. And so I think if you would agree, we can deal with it in—

**Mr. Martel:** I will have difficulty being here tomorrow, Mr. Minister, unfortunately.

**Hon. Mr. Auld:** Well, let's get to it tonight. That's only 1803.

**Mr. Martel:** Well, there might be some impediments between now and then.

**Madam Chairman:** Are there any questions on item 4?

**Mr. Good:** Information services?

**Madam Chairman:** Yes.

**Hon. Mr. Auld:** I'll send you a copy of the letter that we sent out after that, and we got the letter from Dr. Somebody-or-other in Sudbury. And we clarified the position—basically what I said the other day; I was guessing quite well.

**Mr. Martel:** Well, I think you have a right to know ahead of time, but it just seemed to me that what someone in the ministry was attempting to do was to hide that information if the information didn't prove all that favourable. That's all that concerned me.

You know, you could try and bury something; it might come to light six months after, or a year. But that sort of directive certainly at least gave the impression that it was an effort to bury information if it wasn't favourable. Certainly this ministry doesn't want to do that, but there have been ministers known to try very hard to scuttle information.

**Hon. Mr. Auld:** Let me, if I may, Madam Chairman, make sure that the hon. member doesn't miss it. This is a further letter from Dr. Tempelmeyer, dated March 9, 1973, to Dr. Kay, Director, Fine Particles Research Institute, Laurentian University:

Thank you for your letter of Feb. 14, commenting on the need for unrestricted publication of university research. Unfortunately, my letter of Feb. 9 was too brief. I believe more details concerning our request may alleviate your concern.

The Ministry of the Environment has no formal policy for the release of information obtained under research grants. I wish to state clearly that we have no desire to suppress the publication of any aspects of your research. We would hope that ministry support, both financial and informational, is acknowledged in the publication of new information generated in our grant research programme.

However, any statements which would indicate, or be construed as indicating, a policy or course of action of the ministry should have our prior agreement. It is sometimes awkward to have the results of research we support called to our attention by others, because information was released to the public before it was made available to us.

In other instances, we've been contacted by the news media and asked to comment on statements or conclusions arising from research work we were supporting. It is most difficult to do this when we've not seen the information upon which these statements were based. In some instances, we may have to disagree with these conclusions, based on additional information that we have obtained from other projects.

Finally, in a few instances, investigators have broadened their activities into other areas and unknowingly repeated work that we or others had done previously. This inevitably results in criticism for duplication of effort at a time when research moneys are not plentiful, but important problems are. For these reasons, we again ask that you obtain our concurrence before stating, or implying any policy, or an endorsement, of the Ministry of the Environment into publications.

We do not believe that this request infringes upon your academic freedom to publish what you wish under your name. I hope that more fully outlining our concerns did clarify any questions that you may have had on this matter. If you wish, I would be happy to discuss this with you.

**Mr. Martel:** Well, that's certainly a much better letter, Mr. Minister, and I'm delighted to see that it has been sent out. I'm only going to quote one sentence. It says:

Consequently, I would like to remind you that information obtained as a result of work conducted under our research grants may be released to the public but only with our approval.

That would certainly indicate that there was some concern, and be very disquieting to me, at least.

**Hon. Mr. Auld:** There would be an implication that we might argue or approve, in which case they can never release it.

**Mr. Martel:** Right. Certainly the second letter should have gone out in place of this rather brief thing, which seems to be stifling the whole intent of the research going on.

**Hon. Mr. Auld:** I think we got it straightened out. We sent the same thing to other—

**Mr. Martel:** Well, I'm delighted to see that.

If I might just say this, information and brevity seem to be the downfalls of that department. Let's take the case of information supplied to the residents of Valley East just



about eight months ago with respect to the sewer and water project. Letters were so short that, in fact, the people didn't even understand them and there was great confusion surrounding them. It is difficult to understand, but if we're going to communicate so that the public can understand, I would hope that those people putting out the letters would take a little longer to do it once, and do it right, rather than have to repeat it two or three times. In the long run, it's much more costly. I was on the phone last year over that issue every day for, I guess, two weeks as we tried to get something so that the residents of Valley East would know what to expect and how to cope with the problem when it came out.

Again, the confession was that maybe the initial contact with the people wasn't sufficient. This is a similar situation and maybe there could be a little emphasis placed on making sure that everything is taken into consideration before the communique goes out so that, in fact, it is received properly the first time.

**Hon. Mr. Auld:** I won't disagree. On the other hand, perhaps you'd agree that there can be times when we communicate all the information to the local municipality, for instance. I'm not saying that this happened in this case, but I know of cases where this has happened. The entire information has gone to the clerk, say, and the clerk mentions to the mayor that he has the letter and everything is under control. That's about all you hear until somebody starts asking.

**Mr. Martel:** I realize that it's a difficult chore, but one of the failings, I think—I made this mistake when I was in my own profession and it's a mistake that teachers make—is that we talk in jargon we know and deal with every day, but that the public uses or hears infrequently. We just assume they are going to understand what we're putting in our correspondence or communiques to them. Because of the technical language we use constantly, it's a bad assumption because frequently this sort of thing occurs.

**Madam Chairman:** Thank you, Mr. Martel. Are there any questions on information services?

**Mr. Good:** Has there been any expansion in that area, Mr. Minister? Last year you explained about the fact that information goes out to schools and generally to the public in brochures and pamphlets. I guess I went over at one time and saw them. The basic impetus

of any programme for environmental betterment is to publish information. Whether we are getting across to people or not, I don't know.

**Hon. Mr. Auld:** As you will note there is an increase of about 41 per cent—\$185,000—in the sum before us to expand these various things. I think, also, that it's really quite important.

**Madam Chairman:** Shall item 4 carry? Item 4 carried. Item 5, financial services.

**Mr. Martel:** I just want to ask a question. I'm not sure what that implies, Mr. Minister. Is that just directly with the head office, or is it involved in financial services toward communities?

**Hon. Mr. Auld:** No, I will tell you.

**Mr. Martel:** What I'm talking about are the type of projects you're involved with. There is no overlapping between the two, is there? Between the programme, say, in 1802 and this expenditure of \$3.5 million?

**Hon. Mr. Auld:** No, here is what the financial services branch does. It is responsible for the financial management of the ministry, budget and multi-year planning and administration, management information systems, the various manuals of administration and so on, the overall custody and control of the various funds that come within the ministry's jurisdiction, and internal audit. The branch is divided into five sections: the offices of the director, management reporting, general accounting, management audit and project accounting.

**Mr. Caverly:** They're accountable for projects to come. That's what you mean, isn't it?

**Mr. Martel:** Yes. But no money goes into the projects?

**Hon. Mr. Auld:** The money that goes into the projects is in—

**Mr. Martel:** It's a different item.

**Mr. Caverly:** Oh, yes, it's a separate thing.

**Mr. Martel:** I didn't know if there was any duplication. I want to speak later on about the sewer and water project in Valley East. I don't know whether to tie it in here or later on.

**Hon. Mr. Auld:** Is that whole file on Valley East? I noticed that you had a big one.

**Mr. Good:** Happy Valley.



**Mr. Martel:** There is one on Valley East. In fact, it isn't all there, Mr. Minister. I can't lug it all around. Just a small part of it is Valley East.

**Madam Chairman:** Mr. Good wishes to speak.

**Mr. Good:** On the Pollution Abatement Incentive Act, which is administered through your department, a refund of the five per cent sales tax to both municipalities and private industries, how much charge has been made against that by private industry in pollution?

**Hon. Mr. Auld:** That is in—

**Mr. Good:** And could you make an assessment whether or not the pollution abatement equipment in private industries is being speeded up because of this five per cent relief?

**Hon. Mr. Auld:** Well, that one is not in this vote. I'll find out where it is.

**Mr. Good:** Pollution Abatement Incentive Act.

**Hon. Mr. Auld:** Two million seven hundred—

**Mr. Good:** What do you mean, it's not in this vote?

**Hon. Mr. Auld:** —\$2.7 million. And where is it?

**Mr. Good:** In this vote, right here, financial services.

**Hon. Mr. Auld:** Is it?

**Mr. Good:** In my book it is.

**Hon. Mr. Auld:** Oh.

**Mr. Burr:** Page R33.

**Hon. Mr. Auld:** Oh, yes. Sorry. Transfer payments. Pollution. Last year it was \$2.750 million and it's the same this year. Last year it was \$2.750 million and it's the same this year. Last year the amount expended was not quite that amount—\$2.4 million.

**Mr. Good:** How much of this is going to municipalities? Previously it was just given to them.

**Hon. Mr. Auld:** No, no. This is really the rebate of provincial sales tax on that portion of new equipment which is for pollution abatement, and it is comparable to the federal programme where they rebate the 11 per cent

federal sales tax. And then, in addition, there is the ODC programme of loans—

**Mr. Good:** Yes, I'm aware of that. So private industry gets the rebate, at least, the remission of this sales tax, as well as the municipalities, who used to get it. How much effect has this had on speeding up the pollution abatement programme in private industry?

**Hon. Mr. Auld:** I would say it's had an effect, but when you get into something like \$2 million it's important, but it's not, perhaps, the reason that the company goes ahead with its project.

**Mr. Caverly:** I think you put it quite right. Certainly, it has an effect, but it's not the—

**Hon. Mr. Auld:** The main effect is we say you have to do it.

**Mr. Caverly:** Right.

**Mr. Good:** Farmers are now claiming into this, too, aren't they?

**Hon. Mr. Auld:** They could in say, broiler operations or beef herd operations where they're putting in tanks.

**Mr. Good:** Liquid manure tanks.

**Madam Chairman:** Shall item 5 carry? Item 5 agreed to.

Item 6, administration services. Any questions.

**Mr. Good:** What's it all about?

**Hon. Mr. Auld:** It provides a variety of administrative support services to all ministry programmes. These include systems analysis and design, data processing, supply, office services, printing, libraries and accommodation. I might just mention, because I think it is of interest—

**Mr. Good:** For one million bucks I'm not too sure, but—

**Hon. Mr. Auld:** —the significant increase here is in supplies and equipment and that \$319,500 will let us provide Telex communication among all our regional offices. There will be line charges in the future, but that's in the capital cost portion and it's primarily for spill reporting, but it will be valuable for a lot of other—

**Mr. Good:** All the regional offices, air management offices and—

**Hon. Mr. Auld:** We are in the process of combining our field staff, too. It used to be

that sometimes the air management people were in different locations from the OWRC people, for instance.

**Mr. Good:** How will that affect, say, our area, where Waterloo has an air management office and the nearest engineering people are in Hamilton?

**Hon. Mr. Auld:** I can't tell you specifically about that. What we are hoping to do for a number of the relatively routine things is have many of our field staff carry out both functions. Then we can do a little better job with our available resources.

**Mr. Good:** Good idea.

**Madam Chairman:** Shall item 6 carry?

Carried.

Item 7, personnel administration. Any question on that? Item 7 carried?

Carried.

Item 8, data processing. Any question on data processing?

**Mr. Wardle:** Where is the data processing of this department done?

**Hon. Mr. Auld:** We get the work done by Transportation and Communications, and the computer services centre in Government Services. Thus, out of the \$293,500, the two major suppliers are within the government. Then we have an amount budgeted of \$24,200 for some work done by IBM.

**Madam Chairman:** Item 8 carried?

Carried.

**Madam Chairman:** Item 9, SWEEP.

**Mr. G. Nixon (Dovercourt):** Madam Chairman, what do we get for \$400,000?

**Mr. Martel:** Not much.

**Mr. G. Nixon:** I'd like to know this because I'm very concerned about the environment and I'm beginning to wonder how this \$400,000 is being spent.

**Hon. Mr. Auld:** Wait a minute—

**Mr. Martel:** Can I just ask one question? You have shown nothing for last year, but SWEEP was in operation last year, wasn't it?

**Hon. Mr. Auld:** Last year, because of the changeover, the money went with the conservation authorities branch in Natural Resources. We still employed the students but they were paid out of Natural Resources.

**Mr. G. Nixon:** When it's under conservation, why do you have it here, though?

**Hon. Mr. Auld:** Because we have our own SWEEP programme, cleanup and so on, plus some specific projects. Some are projects that we are funding but other people are doing, and I'll give you the figure. This year we will have 191 summer students employed at an estimated cost of \$327,779. We are funding projects that will be done by summer students totalling another 36 students: six University of Toronto; four Seneca College; six more at Seneca College; 10 from the Students Enterprise Assistance League, and 10, the faculty of environmental sciences.

**Mr. Martel:** How much of that is being spent in northern Ontario?

**Mr. Wardle:** You don't clean up there—you don't need much.

**Hon. Mr. Auld:** I haven't got a breakdown, Elie, but there would be a number of them in the—

**Mr. Martel:** Natural Resources?

**Hon. Mr. Auld:** —waste management, the abandoned automobile programme. There would be a number on the Upper Great Lakes programme that we are starting on this year.

**Mr. Caverly:** And the recreational lakes programme. I think we are going to do some work up in the Lake of the Woods area.

**Mr. Burr:** Last year this work came through the conservation authorities and Essex county hadn't one. It still hasn't, as a matter of fact. Consequently it was almost impossible for any Essex county students to be taken in on this programme. Does that apply this year?

**Hon. Mr. Auld:** Natural Resources have the SWEEP programme for the conservation authorities. They do all—

**Mr. Burr:** They have their own as well?

**Mr. Good:** This is a different one?

**Hon. Mr. Auld:** This is just Environment.

**Mr. Good:** Oh, I see.

**Hon. Mr. Auld:** Natural Resources have SWEEPs—summer students; universities and colleges do, I think. There are various programmes in various ministries having to do with summer students.

I'll tell you whether we have any students involved in things like water quality, water

quantity, industrial waste water, water quality biology, sanitary engineering, private waste and water management, project development, air management, waste management or laboratory—well, we wouldn't have any laboratory students in winter because our laboratories are here.

**Mr. Burr:** Are the other SWEEP programmes being channelled through the conservation authorities or not?

**Hon. Mr. Auld:** No, the Youth Secretariat—

**Mr. Burr:** Mrs. Birch.

**Hon. Mr. Auld:** —gets all the applications, channels them out to all the ministries and then gets back from the ministries the names of those who are accepted. Thus it's really a co-ordinating role.

**Mr. Burr:** Then there would be no reason for any Essex county students to be excluded from the SWEEP programme?

**Hon. Mr. Auld:** No, not this year.

**Mr. Burr:** In any of the ministries as far as you know?

**Hon. Mr. Auld:** Altogether we had 10,000 applications and we will have 191 plus 36 employed, so obviously—

**Mr. Burr:** A few disappointments.

**Hon. Mr. Auld:** Pardon?

**Mr. Burr:** There will be a few disappointments.

**Hon. Mr. Auld:** Yes, but no doubt there are a few duplications.

**Mr. Good:** Duplications, too?

**Hon. Mr. Auld:** You know, kids who applied to the province and also applied to the federal government and to industry and so forth.

**Mr. Burr:** Have you any idea how many SWEEP jobs there are in the combined ministries? Just a round figure?

**Hon. Mr. Auld:** The biggest single programme I guess is still the Junior Forest Ranger programme in Natural Resources.

**Mr. Burr:** That is not a SWEEP programme, though.

**Hon. Mr. Auld:** No, but for summer employment. It has all been lumped together. I'm afraid I can't tell you the total estimated. David, do you know?

**Mr. A. Castel** (Supervisor, Management Reporting): Eight thousand.

**Hon. Mr. Auld:** Eight thousand?

**Mr. Castel:** In the summer programmes.

**Madam Chairman:** Mr. Laughren. Excuse me, Mr. Ruston. Mr. Laughren was next. I'll put you down.

**Mr. F. Laughren** (Nickel Belt): Thank you, Madam Chairman. Out of the total budget of \$400,000, how much of that is in salaries to the students who are working? Do you know that?

**Hon. Mr. Auld:** That is what I mentioned. It's all eventually in salaries. For the 191 that we are employing directly, their estimated salaries come to \$327,779. The external, as we refer to them—the projects that are being run by universities or colleges which we are funding, have 36 students at a total cost of \$36,423 so that's—

**Mr. Good:** About \$1,800 a piece.

**Hon. Mr. Auld:** Well, I imagine in that—yes, that would be about right.

**Mr. Laughren:** How long does the programme run? Are they in varying lengths?

**Hon. Mr. Auld:** Yes, some are. At least they aren't all at exactly the same time and particularly the ones who are working say, in the laboratory or in some of the testing programmes. It varies, first of all, on when our project can start and, secondly, on when the student is available. Some started, I guess, about May 1, and some haven't started yet.

**Madam Chairman:** Mr. Ruston.

**Mr. R. F. Ruston** (Essex-Kent): Madam Chairman, if you take 191 students and they work about 15 weeks, on what your wage scale is it comes to about \$280,000 to \$290,000—I was wondering, unless they are going to be working longer than that, there just seems to be a little discrepancy.

**Hon. Mr. Auld:** I think the main variation is the length of time they are working. Some would be working longer than that.

**Mr. Ruston:** I suppose their wage scales may vary?

**Hon. Mr. Auld:** They do if they are second- or third-year students, I suppose, and with the various projects they are working on.

**Mr. Ruston:** Are these mostly university students?



**Hon. Mr. Auld:** I would say that the bulk of them are. As a matter of fact if you require them for more than July and August they would pretty well have to be university students.

**Mr. Caverly:** But 20 per cent of that figure is not salaries themselves; it includes supplies and travel, etc.

**Mr. Ruston:** Thank you.

**Madam Chairman:** Mr. Nixon.

**Mr. G. Nixon:** Yes, Madam Chairman, I would like to know how many of these projects are in Metropolitan Toronto and where these projects are. I would like to know the number and the place where they are going to take place.

**Hon. Mr. Auld:** I am afraid I can't give a breakdown because some of these will move from place to place. The laboratories are all in Toronto, I guess.

**Mr. J. H. Neil** (Director, Water Quality Branch): Northwest Ontario and London.

**Hon. Mr. Auld:** Toronto, London and Thunder Bay

**Mr. G. Nixon:** You have no list for Metropolitan Toronto and you can't show any action?

**Hon. Mr. Auld:** I could get it for you but we haven't got it broken down here. I have got the various projects and programmes but not the specific geographic area where the project or parts of it may be going on.

**Mr. G. Nixon:** I am personally very concerned about Metropolitan Toronto because I think it needs a lot of SWEEP here because there are an awful lot of people and an awful lot of pollution.

**Mr. Ruston:** It needs more than sweeping, I think.

**Mr. G. Nixon:** That is right. I think we should look after the big city where all the people come from.

**Mr. Ruston:** It needs a big windstorm.

**Madam Chairman:** Mr. Wardle.

**Hon. Mr. Auld:** I will give you one, for instance, to indicate that it might be difficult. The University of Toronto has a project which is called "The incidence of Pseudomonis Aeruginosa in Swimming Pools and Public Beaches."

**Mr. Martel:** What kind of strange animal is that?

**Hon. Mr. Auld:** Well, I will find out.

**Mr. Martel:** Do you understand all of it?

**Hon. Mr. Auld:** I assume that the U of T will not be going too far afield. I don't know whether there is any of this in the swimming pools and beaches in the city of Toronto because I don't know what it is. I am sure they can find enough beaches and pools around here to employ the six people who are involved in it.

**Mr. G. Nixon:** Mr. Minister, I have noticed that when certain projects are going on they have a sign which says this is a certain project by a certain department of the federal government. If we are going to have a SWEEP programme why don't we put a sign up where they are doing the job?

**Mr. Ruston:** Got lots of elm-street signs up where I live.

**Mr. G. Nixon:** I know, but I am interested in seeing where this action is and telling the people the government is doing a job. I think we should be getting credit for it.

**Mr. Martel:** Have you been out on the highways at all?

**Mr. G. Nixon:** I stay in Metropolitan Toronto where the action is.

**Mr. Martel:** They leave those advertising signs up three years after the highway project is completed.

**Mr. Laughren:** And a year before they start them.

**Mr. Martel:** They take them down when the minister changes and they have to put a new name on.

**Madam Chairman:** Mr. Wardle.

**Mr. Wardle:** Madam Chairman, to the minister, how much money is allocated in this programme for the cleanup of the Don River?

**Mr. Caverly:** I think that would be under the SWEEP programme of MTRCA.

**Hon. Mr. Auld:** The Metropolitan Toronto Region Conservation Authority.

**Mr. Wardle:** Madam Chairman, this is one of the problems. When I was an alderman in Toronto I took an interest in the proposal to try to clean up the Don River. The Don

River is partly under the jurisdiction of the province, partly of Metropolitan Toronto and partly of the city of Toronto. It seems that it is very difficult to get the three agencies together in order to do what I think is a very necessary job to clean up the Don.

I think the Don River should either be cleaned up or it should be covered and become a sewer running through that particular area. I think if the ministry is really serious about a SWEEP programme as far as Metropolitan Toronto is concerned, the clean-up of the Don should be a priority.

I am thinking particularly of the entrance of the Don River to Lake Ontario; there is a turn there and this is one of the reasons the mouth of that river is silted up all the time. Years ago, I understand the Don River was a clean body of water and people enjoyed boating in that particular area. I expressed a wish a few years ago that some day the Don River would be cleaned up in order that fishing could return to the Don and it could be a very nice recreational area within Metropolitan Toronto.

I understand there are still firms putting chemicals into that water. I don't know what the minister is doing in this regard but I would think that as far as the SWEEP programme in Toronto is concerned the cleanup of the Don should be No. 1 priority. I wonder what the thoughts of the minister are in this particular matter.

**Hon. Mr. Auld:** Actually there was, as far as SWEEP is concerned, a cleanup along the Don last year, and a couple of private companies hired a number of students through this programme. It was cleaning up the stuff lying along the banks; it wasn't dealing with the water quality. That really is a programme that our waste branch has been involved in with the municipalities in finding the sources and stopping them.

I haven't the figures in front of me but you might recall that Mr. Renwick, I think it was, asked me when we could swim down the Don. I said I didn't think I wanted to swim down it because I didn't want to swim that far but I would be delighted to swim across it this summer because it has been cleaned substantially. I haven't got the figures but I remember having them at the time.

Interestingly enough the Toronto Harbour Commission reported a short time ago that their divers are now seeing a lot of fish in Toronto harbour and none of them has seen that in his lifetime before. The cleanup is starting to show results just as it is in the Humber.

Actually, if you look at some of the early history you will find that while the Don may have been a little cleaner, there were complaints and letters to the editor in the Toronto press of the day about people leaving dead animals on the ice in Toronto bay and dumping all their garbage. It was an awful mess. That, of course, has all changed, too.

**Mr. Wardle:** Mr. Minister, I feel that here is a project by which, if your department was really concerned about it, it could make a very nice difference to that area of the city of Toronto. I think one of the main problems, as I mentioned before, is the mouth of that river. If you could think of some way or arrange with the factories which are blocking the entrance of that river to the lake, this could be accomplished.

I think that rather than having a SWEEP programme for a couple of months of the year it is more a matter of there being continual surveillance of that river and, possibly, heavy fines for people throwing old tires and stoves and shopping carts and the things you find along that river bank.

**Hon. Mr. Auld:** We are continuing our investigations, and the municipalities are with theirs, on the input to storm drains, for instance, which then empty into the Don—improper waste going into the storm drains. The matter of policing the area to see that people aren't using it as a dump is really within the jurisdiction of the municipalities through which it passes.

**Madam Chairman:** Shall item 9 carry?

**Mr. W. J. Nuttall (Frontenac-Addington):** No.

**Madam Chairman:** Sorry, Mr. Nuttall.

**Mr. Nuttall:** Madam Chairman, there is one question that I'm very pleased with. SWEEP in my area, especially in the last year, did very well in Pittsburgh and Frontenac. But one thing has always more or less amused me. I wonder why the ministry doesn't imply what the word means? If we say SWEEP, why don't we co-ordinate some of the students with municipal people—start at the watershed and bring everything down to the eventual end in the Great Lakes system?

I think in co-ordinating this we might, for instance, run a programme and give the people new tests on sewage going into relatively clean lakes. I would suggest giving the people years, or whatever time is necessary, to clean up these septic systems, but at the same time, probably, bringing out a feasibility

report that can be related back to the councils and say, "This lake has all the people it can possibly stand." In other words, make some contribution to the municipality.

**Hon. Mr. Auld:** To a degree we do that at present. As you know we are doing over a quarter of a million lakes in the province. So far we have done about 15,000 individual cottage surveys and found where the problems were—all those that one can find—and taken steps to see that they were tidied up. We are doing another 5,000 this year at that end of it. But the real problem, I guess, is that we do what we say we will. In the case where there is an official plan, somebody has a plan of subdivision, and it comes to Treasury, and they send it for our comment on what the lake can stand. Natural Resources are also involved, because they are interested in the fishing pressures, and so on.

But there is such a large area which is unplanned, where there have been, not subdivisions, but pieces sold by leaps and bounds that we don't find out about until afterwards, that we still have a lot of catching up to do. But that is certainly what we have to achieve eventually.

**Mr. Nuttall:** I'd like to see the municipal people involved a little more. In other words, a municipal man who knows the area. I think students can waste a lot of time if they don't know the area. Even a lot of our people, technical people, probably don't know many areas and waste a lot of time.

Whereas, if a municipal person was appointed and, say, a municipal council was asked to apply for, say, three students for a particular year, and they were going to do such and such a lake, or two or three lakes—in other words, in the next year do three more—eventually they would have the township completed. I know it is a costly project. But I would like to see the municipality involved to the point where they are going to have somebody who knows the area go with these students. I think it would save time and do a complete job, as the SWEEP programme says it does.

**Hon. Mr. Auld:** My understanding is that that kind of liaison is through the health unit, because they are the people, who, at the present time, are responsible for the inspection. But it may well be that we might indicate to our own supervisory staff that sometimes they might get help from the municipal council or clerk of the municipality.

**Mr. Nuttall:** I think they should be in on this, with an attempt to clean up their own municipality.

**Madam Chairman:** Shall item 9 carry? Item agreed to.

Vote 1801 agreed to.

On vote 1802:

**Madam Chairman:** All right, we turn to vote 1802, item 1, water management co-ordination. Mr. Minister, do you have a statement about this?

**Mr. Burr:** Madam Chairman, could I suggest that these three items are so overlapping that we should not try to do them item-by-item.

**Madam Chairman:** Is it the wish of the committee?

**Mr. Ruston:** I would agree.

**Madam Chairman:** Right. Mr. Minister, do you want to make some little statement about the definition of these various functions?

**Hon. Mr. Auld:** Well, I have one, just by chance. Responsibility for the water management section of the ministry rests with the assistant deputy minister, Mr. Caverly. This includes both the quantitative and qualitative aspects of water management, as well as related regulatory functions. The development, construction and operation of water supply and pollution control facilities is also part of this responsibility.

Two executives—the executive director in charge of the water supply and pollution control division, Mr. Sharpe, and the other in charge of the water resources division, Mr. Watt—report to Mr. Caverly and have direct responsibility for the programmes which are carried out by the various branches which up this section. That's sort of the thing in ball park terms.

**Mr. Martel:** Well, then, I guess, we'll get down to the nitty gritty right away, Mr. Minister.

**Madam Chairman:** Could I have the speakers designate their intentions, please? You are wanting to speak, Mr. Martel, Mr. Burr, Mr. Ruston? Go ahead.

**Hon. Mr. Auld:** Are there any sort of questions on the actual sums involved? I just say that the complement has been increased by three for this fiscal year. Last year the amount voted was \$1,509,900, and this year



it's \$2,045,000. The main addition here is \$200,000 for the Grand River ground water recharge study.

**Mr. Martel:** I have several areas I want to discuss under this item. There is none more dear to my heart than Valley East. When having met recently again with some of the councillors, they continued to have great fear that this is simply not going to be within their means to pay. I've written the minister a number of times to try to get clarification—on April 3, but more recently on May 8.

**Hon. Mr. Auld:** Did you get my reply?

**Mr. Martel:** I had one reply, but not to the one written on May 8, wherein, after having had an opportunity to go over the MacLaren consultants' report with some of the councillors, it would appear as though the scheme is again back in ball park figures, somewhere around \$500 per family, per year, if we interpret it correctly. That's what the council really hasn't been able to get its finger on, despite a number of trips to Toronto.

I'm not sure your department is really in a position to indicate what the ultimate costs are going to be. But let me illustrate what I'm concerned about. In the MacLaren report, the first problem is the cost per month for water. It would indicate Hanmer residents would be paying \$16.50 per household per month. As everyone knows up there, the water that's going to be supplied comes from ground wells right in Hanmer. It's going to be piped some 20 miles over to the Azilda and Chelmsford area, where the MacLaren report indicates the cost per month will be in the neighbourhood of \$13.50.

That's \$3 a month more, roughly, in the very area that the water is being tapped from. Now you try to sell that to the municipality—that people some 20 miles away are going to get water approximately \$3 a month cheaper. In ball park figures, we are talking about a few hundred dollars for water alone. That's what's in the report, as we understand it.

The second problem is that, despite the minister's announcement of about \$240—\$110 for water, I guess, and \$130 for sewage—there is some concern that he is talking about an average lot of 65-ft frontage. Where, in fact, in reality, in Valley East, most lots are over 100 ft. In fact, that figure, as well, of \$240 could be greatly escalated per household.

The third problem—and this figure has never come out to my knowledge, in talking to people like Arthur Cavell they are not aware that there are sewage charges on a gallonage basis as well in the MacLaren report. And that is an X.

Finally, there was a suggestion by the ministry that despite the original agreements where there would be nothing attached to the mill rate, in fact the mill rate would be escalated by nearly 40 mills. When you put that whole bag together it looks as though we are talking around \$500 a year for sewage and water costs alone, without the other taxes in that municipality. They simply can't afford that. There is no way. I would hope that the minister could give us fairly detailed approximate costing to allay the fears that are pretty frightening—and I am sure your staff is aware of it—to both the council and the residents in those areas.

One final point: The regional council have now taken responsibility for that, have they? Because again the MacLaren report says the government will own this in perpetuity.

**Hon. Mr. Auld:** I think the regional council asked us to operate it and also to operate the existing Sudbury plant on their behalf.

I just want to say one thing before I ask Mr. Cockburn to answer some of your questions in detail. It seems to be pretty generally agreed that if there had been a highly expert study commission to find an area and then to so have it developed to make it the most expensive thing to service in the world, that would be it. That's the first point.

The second point is that I think the estimated total cost is \$41.6 million, and the provincial subsidies and grants come to \$25 million. So it is probably as highly subsidized as, or more highly subsidized than any other project that we have ever undertaken.

But to get into the question of estimated average household costs and mill rate and such, I am going to ask Paul to answer those specific questions. I had an idea that I had signed a letter to you in the last couple of days—about five pages—

**Mr. Martel:** I can reach my office for that.

**Hon. Mr. Auld:** I should have sent it down with the memo.

**Mr. P. G. Cockburn** (Director, Project Development Branch): I think one of the basic problems we have is that you are relating

some of your comments to Valley East as a municipality, and the municipality is no longer the municipality that we deal with directly. Regional Sudbury has taken over the responsibility of the agreement we had with those municipalities. Consequently, other than our informal contacts with those municipalities, we are not in a position to start discussing rates with them, because the rates in fact will be with regional Sudbury. We do meet with them on a monthly basis, so they are better in the picture now. But they also appreciate that what we are doing right now is still very tentative, and I can understand their reluctance to come out and tell the municipality it is going to cost X dollars when they are not sure whether it is X plus 10 or X minus 10.

**Mr. Martel:** You will have to agree if there is no real dialogue between the municipality that is going to be most affected, Valley East—

**Mr. Cockburn:** I would continue, though, Mr. Martel, that representation at our liaison committees has been in part by both Valley East and Rayside. So they have been in on the meetings or represented at them. Getting the information back to the ratepayers is certainly something that would be very dangerous to do right now. Our proposal hasn't been approved internally by the ministry, and it hasn't gone out to the region for its approval. In any event, this is one of the complications we have in this particular programme.

The second one you mentioned, people like Mr. Gravelle have been in and out of council and they have lost a few years, and it's hard for them to keep track of what we talked about in 1967 and now. So there are a lot of confusing problems in Valley East itself.

**Mr. Martel:** Yes, but conversely those who are new to the ball game aren't helping the situation, because in fact they don't want to involve some of those people who are back in the picture.

**Mr. Cockburn:** Well, this is local with the region.

**Mr. Martel:** Right.

**Mr. Cockburn:** In our present proposal, based on our current costs, as the minister mentioned close to \$43 million, or over \$43 million, is being spent in total for Valley East, Rayside and the pipeline and Balfour. The increase in provincial assistance last fall has alleviated quite a bit of the problem. Our

original typical homeowner costs, say for Valley East sewage, were \$132 or \$133. These are the ones that were advertised originally, and the ones we have the agreement on. Based on our current financial proposal for the Valley East sewage we're talking about \$120 to \$121.

**Mr. Martel:** That's total, with sewage?

**Mr. Cockburn:** That's sewage.

**Mr. Martel:** I don't want to appear to be interfering, but I would like to just go through it once so we don't have to go back and forth, if you don't mind. The MacLaren report indicates a sewage cost-plus gallonage treatment. Is that all involved in the \$121?

**Mr. Cockburn:** I must correct myself. I said I hadn't seen the report you referred to when I talked to you the other day. I had seen it, but it was the old report on assumptions which they look at on an altogether different basis. They don't try to interpret the costs to our costs. They look at total dollars going in and how many people are there and then relate it back. It is not an analysis such as we do.

**Mr. Martel:** That is what has just recently been given to council. You can understand their fear.

**Mr. Cockburn:** I can see how you could get that out of that type of report. This is not a misleading figure, it is just a different figure.

**Mr. Martel:** What you are saying then, Paul, is that all type of sewage costs would average roughly \$121?

**Mr. Cockburn:** Yes, for a typical home. Now you mention that a typical home is not necessarily the home that is in Valley East or the one that is in Rayside anywhere, and this is true anywhere in the province. We have to work on typical homes because we don't relate one municipality to another. When we eventually get down to, say, re-advertising the project for the Municipal Board, if this is necessary, or making a submission, then we take into account what is a better home than our so-called typical. Our typical home is the one that is used whether it happens to be in Mr. Burr's area or in your area. It is the same home, and you can't juggle the figures to get a better subsidy in Sudbury than you can in Tecumseh, for example.

**Mr. Martel:** But it has no relationship to the size of the lot, does it? Are you just talking about the home in itself?

**Mr. Cockburn:** The size of a lot is for a typical home. We say the typical home in the province has a 66-ft lot.

**Mr. Martel:** That could throw that figure away out then.

**Mr. Cockburn:** It can throw it out upwards or downwards. I can name you municipalities where a typical home is 35-40 ft.

**Mr. Martel:** Yes, but there are only 100 homes in that whole area that have 65 ft. The rest are over 100 ft.

**Mr. Cockburn:** Yes, but we are still talking comparing costs here to the original of \$133, now being \$121. And that was the same game when we had the Municipal Board hearing. It was part of the Municipal Board hearing—pointing out this discrepancy. Everybody has to relate what their costs are to their own lot. And we attempt to do this.

**Hon. Mr. Auld:** There is another factor, too, isn't there, Paul, where you have a typical home cost and you just happen to have some industry in town which has a large gallonage? Since the municipality is eventually charged on a gallonage basis for operating costs, this can reduce the homeowner cost considerably. The same way with water.

**Mr. Martel:** Yes, if you have got secondary industry. We don't have any in the valley.

**Hon. Mr. Auld:** But this is one of the things that can affect it, if something comes along there.

**Mr. Martel:** There is the Ontario Housing project in which the design is done for 363 units.

**Mr. Cockburn:** That's essentially just more people using the same amount. On water, just to fill in these costs, the typical home cost originally was \$100.18. Our current figure is \$110 right on the new Standard here, the total being \$230.

**Mr. Martel:** That's total costs?

**Mr. Cockburn:** That's total for the complete system; that's right. That's a Valley East cost. Rayside has different ones.

**Hon. Mr. Auld:** It could be a cost to the homeowner for changing the pipe from going out the back to a septic tank to making the connection.

**Mr. Martel:** Oh, yes, I recognize that. My concern is primarily what the average yearly cost is going to be over the life of paying for this. If it's \$233, then I'm sure everyone is happy if that's going to be the total cost. But, as I say, after having read the report, as you say, we probably misinterpreted it.

**Mr. Cockburn:** You are really trying to compare apples and oranges by comparing a report like that to the method that we do in our financial analysis and our billings.

**Mr. Martel:** So, in fact, the idea of the increase in mill rate then can go out of the window.

**Mr. Cockburn:** The idea in the increase in mill rate was twofold. It was not necessarily our recommendation. It was a manoeuvre and quite a valid one, to get more money through the mining revenue payments. As we pointed out to them at the meeting with Mr. Auld—I don't think you were at that meeting—it appeared like a good idea. By sheer luck more than any foresight, we also said this could be cancelled at any time, which has now happened.

**Mr. Martel:** That was the concern I expressed to the minister and some people from TEIGA at another meeting on the same occasion, because the former Treasurer had announced that these probably would not go on. Just about a year ago in the Sudbury area he announced there was no guarantee that mining revenue payments would go on indefinitely.

**Hon. Mr. Auld:** There is another formula now which actually is better. It takes the place of mining revenue payments.

**Mr. Martel:** Yes, if you had tied it to the mining revenue payment.

**Hon. Mr. Auld:** But, of course, he couldn't say that because the budget hadn't come down.

**Mr. Martel:** Right. We are in a bind. It is one of the reasons you can appreciate why I advised council not to write bylaws until they had a firmer commitment as to what it was going to cost. If they had rewritten bylaws, and the cost had escalated for some unknown reason, then, in fact, the citizens I represent would have been into it for 40 years for what at that time we thought could be \$400 or \$500. It would have simply wiped the area out.



**Mr. Cockburn:** Of course, in the back of our minds at the same time we were hoping that the subsidy would be increased unless you got it in another form.

**Mr. Martel:** I am sure that, despite the fact that the average lot is maybe, 110 ft, it is not going to drive the cost up that much.

**Mr. Cockburn:** No, we are talking about 50 cents a foot.

**Mr. Martel:** Yes, we are talking about maybe \$257 a year then at the most. I don't think anyone would object to that. That is the sort of clarification we have been trying to get, not in any set terms that it's going to be this amount, to put you in a bind where you've made a commitment and couldn't alter it.

**Hon. Mr. Auld:** The problem that our staff have had is a regional government one with changes that were in the wind about some of the subsidy rates and stuff like that. It is quite understandable that people would be concerned and yet for obvious reasons we just couldn't act then.

**Mr. Martel:** Oh, no.

**Hon. Mr. Auld:** Now we are in a reasonable spot.

**Mr. Martel:** Well, that was my concern.

**Mr. Cockburn:** I think there is an added point. We are not submitting these rates; they are not being finalized on this basis. We have discussed this with regional Sudbury. In Valley East and Rayside essentially. Balfour already have sewers and water in. These two now have been given an ideal opportunity to combine the two areas and have a uniform rate for both areas, so that you don't cross the street in Hanmer, from Val Carron into Azilda and somebody is paying \$20 more than somebody else.

**Hon. Mr. Auld:** That's right.

**Mr. Cockburn:** You can combine them now all under regional authority. It's not going to make much difference to anybody when it is finalized. Everybody is going down, and they'll come down with the lot. This analysis is actually doing that in the next four or five weeks.

**Mr. Martel:** I am sure that the people in the area will be really happy at least to have some indication now that it is not going to \$500, but that we are talking somewhere between about \$230 and possibly, dependent upon your lot size, \$260 or \$270, which is

certainly going to relieve the fears that they had, and quite justifiably so. I appreciate this very much.

**Madam Chairman:** Any other point you want to raise, Mr. Martel?

**Mr. Martel:** I have one other point on a completely different topic, Madam Chairman, my usual rundown.

**Madam Chairman:** We are taking everything on these three points together.

**Mr. Martel:** It's all in order. I see Mr. Caplice is here. It's my usual rundown of my friends and their improvement in the areas which haven't yet been approved. I have a list from last year of Inco and Falconbridge operations, those which were satisfactory and those which were not satisfactory, for such things as tailings and so on. At that time I indicated I was happy to see that it was being improved. There are still a number, and I'd like to find out what has happened to these areas to see if something definite has been undertaken in the past 12 months to clear up those areas.

I guess the first one is with respect to the Copper Cliff refinery, the Bosh Pond overflow. You indicated last year in a letter to me on June 8 that there was periodic unacceptable effluence and it was being received in streamlets leading to Copper Cliff Creek.

**Mr. D. P. Caplice** (Director, Industrial Wastes Branch): My understanding is that has been corrected.

**Mr. Martel:** That has been.

**Mr. Caplice:** It has been diverted to a holding area for treatment.

**Mr. Martel:** Okay, the storm sewer from the same place which had periodic unacceptable effluent and for which there was a proposal to correct the situation in 1972?

**Mr. Caplice:** It's been corrected.

**Mr. Martel:** It has been corrected. Great. What about Levack West Mine? The letter said "mine is in initial stages of development" and the treatment provided was undecided at that time. The receiving body was the Onaping River.

**Mr. Caplice:** I am not completely sure. I can apprise you later of the situation at that particular mine. I think that they have decided on the waste treatment works but I am

not yet clear as to whether they are operational or not.

**Mr. Martel:** All I am doing is the ones that weren't satisfactory to you people at that time. There is the Copper Cliff nickel refinery. The plant was under construction and the receiving stream was Kelly Lake.

**Mr. Caplice:** Right, the waste treatment facilities for that plant are not yet complete.

**Mr. Martel:** And the electro-wing plant? It was under construction as well.

**Mr. Caplice:** Approved waste treatment facilities have been put in.

**Mr. Martel:** Yard drainage was under study by the company and a proposal was expected in 1972. The receiving stream was Mud Lake. There was no treatment then, except that one. That's a difficult one, I imagine.

**Mr. Caplice:** I'm unclear as to the total yard drainage picture. That's a difficult problem to come at because you have to collect all of the rainfall from a large acreage. I will look into the situation. They were thinking of collecting as much as they could and diverting to the tailings area and thereby getting some degree of treatment.

**Mr. Martel:** And the Copper Cliff South Mine, where the receiving stream was Copper Cliff Creek and it's to be pumped to Copper Cliff tailings area by June, 1972. Is that complete now?

**Mr. Caplice:** That's complete now.

**Mr. Martel:** That's complete. Great. Copper Cliff North Mine had unacceptable effluent being discharged, and tests were under way to improve and facilities were being evaluated.

**Mr. Caplice:** I can't recall from the top of my head where this stands, but I can get information for you, I think.

**Mr. Martel:** The Murray Mine. That's closed, isn't it?

**Mr. Caplice:** Closed, yes.

**Mr. Martel:** Garson Mine, periodic high concentration, pilot work completed in 1971, being evaluated.

**Mr. Caplice:** A decision is to be made, this month or June.

**Mr. Martel:** I guess we turn to Falconbridge, then. The Onaping mine had periodic

high concentration of solids and improved treatment system was under investigation.

**Mr. Caplice:** I think they have improved the existing treatment system. I'll have to doublecheck these things. These are coming right off my head.

**Mr. Martel:** Yes, I'm just trying to get at one.

**Mr. Caplice:** Right!

**Mr. Martel:** On Falconbridge East Mine, there is a lengthy report. You people have that under control now and Falconbridge is responsible for cleaning that up now, I think.

**Mr. Caplice:** That's quite correct.

**Mr. Martel:** That's the one you and I visited some years ago, was it not?

**Mr. Caplice:** Yes, four or five years ago.

**Mr. Martel:** Yes, it has taken a long time but it's on its way. East Mine, emergency area for sandfill to be constructed in 1972; was that done?

**Mr. Caplice:** That's completed.

**Mr. Martel:** Okay, there are only two left. Falconbridge concentrator, Emery Creek. It was under investigation last year.

**Mr. Caplice:** They have taken action to investigate and improve on this situation, as best I can determine.

**Mr. Martel:** Okay, and this is new, the Lockerby mine-mill complex. It's not yet open.

**Mr. Caplice:** That's not operational.

**Mr. Martel:** No.

**Mr. Caplice:** No, and I don't think there has been a decision made whether that's going to go.

**Mr. Martel:** Yes, I think they are building a road into there now, aren't they?

**Mr. Caplice:** The road is going in but the whole waste treatment facilities for that proposed development are yet to be finalized.

**Mr. Martel:** Well, thanks. I want to say, Mr. Minister, I have been working with Mr. Caplice for a long time on this. That's a pretty effective group of people you have in that department. They just need to know that they know that they have the backing of a minister to do the job and they can do it.

That is evident, because when we got involved in this four or five years ago that place was in chaos, but they have done a first-rate job of bringing it into some fairly good order. I wish the other department responsible for air management was meeting with as much success as they have been because they have done a great job.

**Mr. Caplice:** Our problem is easier.

**Mr. Martel:** Yours is easier.

**Hon. Mr. Auld:** There is a little difference in the technology and the available—

**Mr. Martel:** I appreciate the difficulties, I just don't appreciate the latitude you continue to give them in allowing them to allow that stuff to spew out. You and I will disagree on it when we come to it a little later on, I can assure you.

**Madam Chairman:** Thank you, Mr. Martel. Mr. Burr is next.

**Mr. Burr:** Madam Chairman, I wanted to inquire about an item that appeared in the *Globe and Mail* on March 17 and which said that a sewage plant in Metro was "halted by a handful of pills." That's the headline.

**Hon. Mr. Auld:** Pardon?

**Mr. Burr:** The headline is: "Sewage Plant Halted by a Handful of Pills." I will read the first two paragraphs:

A handful of antibiotic pills dropped into the Metro sewer system knocked out a sewage disposal plant's operation for several days recently. The pills killed the bacteria used in the plant to purify the sewage, Metro Works Commissioner Ross Clark said yesterday.

That's the gist of it. It is rather an amazing story to me. How did they discover what caused the death of the bacteria? How easy was it to remedy the situation—to reintroduce bacteria? And why has such a simple thing not happened before, or has it?

**Hon. Mr. Auld:** Well, to give you a non-technical answer, it probably has. There are a number of things that will kill the bacteria in any bacteriological sewage treatment process. Non-technically, some of the bacteria eat up some of the others to provide the treatment. We had one instance in Kitchener not too long ago where we found somebody had dumped some cyanide from their plant and Kitchener are trying to find out which plant it was.

**Mr. Burr:** That's different from a handful, and it wasn't pills.

**Hon. Mr. Auld:** I don't know that anybody would have been able to have told how many pills went in. I assume that by analysis they could find out if it were penicillin or whatever it was. They would tell very quickly when the plant was knocked out and there was an upset because it then creates some problems that are detected easily when you open the window. Do we know anything about that one?

**Mr. Caverly:** We would normally not get into that. Metro have their own laboratories and things like that. It is rather hard to believe that story in a way. I find it difficult to associate knocking out one of Metro's plants of that size by some pills. If some acid came down, or cyanide, or something like that I could believe it.

But on the other hand certainly it's easy to detect when your bacteria are starting to die off. In an activated sludge plant it is quite an easy thing to see that and there are certain remedial measures that can be taken to bring it back. We add lime, we can add chlorine. The plant will recover on its own eventually. This takes several days. The trick in this is to try to get it back working as quickly as possible.

**Mr. Burr:** Do you not have to find bacteria and restore it?

**Mr. Caverly:** You can; you can haul in sludge from another plant. This has been done on occasion. But on a plant the size of the Humber or the main Ashbridge's Bay plant, it might not be practical to do that; it would take quite a few truckloads to do it. Probably they just added chemicals and it brought itself back.

**Hon. Mr. Auld:** The chairman mentioned to me a moment ago that the Ashbridge's Bay plant is in her riding and she heard about a case some time ago which was tracked down apparently to a pharmaceutical clerk who was cleaning out a warehouse of old pills and dumped everything in the waste and caused an upset.

**Mr. Caverly:** Maybe that's the one you are referring to?

**Hon. Mr. Auld:** But I think it would have been more than a handful of pills.

**An hon. member:** I should think so.

**Hon. Mr. Auld:** That's a big plant.



**Mr. Good:** They've got some pretty strong antibiotics.

**Hon. Mr. Auld:** A little journalistic licence might have been taken there, I think.

**Mr. Burr:** Well, Man and Resources held meetings around the province and in Sarnia there is a little item. It says in the Man and Resources publication, Outlook '73:

The Sarnia group favours the Clivus sewage system now being used in Sweden, Norway, Finland and in Switzerland. This system is very simple. It has no moving parts and composts wastes into material similar to garden soil which is absolutely safe to use. The Clivus system impresses because it uses resources only in its initial manufacture, requiring no machinery, electricity or even water for its operation.

Have you any information on that?

**Hon. Mr. Auld:** Pardon?

**Mr. Burr:** Have you any information on that?

**Hon. Mr. Auld:** Mr. Caverly has.

**Mr. Caverly:** I think this is the one. I have read about it in the composting magazines. It is a Swedish invention. The toilet wastes and garbage wastes are put through a tube into a concrete composting tank in the basement of the house and there are vents from this up to the roof. The material decomposes in the tank and you can shovel out the composted material periodically—if we are talking about the same thing, and I think we are.

**Mr. Burr:** Is this a home installation?

**Mr. Caverly:** It is on an individual home basis. It doesn't look after sink water or bath water. It eliminates the flush toilet and it takes care of the organic garbage. That was my only comment on that.

Apparently it is used—I was going to use the word "widely"—I don't think it is widely used, but it is used in Sweden. There was an article in the composting magazine about a year ago on this, and I think we are talking about the same system.

**Mr. Burr:** Will you be making an effort to see if this is applicable to Ontario?

**Mr. Caverly:** I think we will look at that in the same context as we look at many of these individual household systems. They are a little biological plant on a household basis.

Ontario Research Foundation now has—it was in the news not too long ago; within the last month—a recycling process for the individual household which is well into the developing stage.

**Mr. Burr:** That's the Wallaceburg one?

**Mr. Caverly:** No, this is one that is being developed out at Sheridan Park by Ontario Research Foundation under a CHMC grant. They are looking at the recycling of waste—recycling sewage and making household water out of it and burning garbage to supply fuel for the house. It is in the development stage.

We keep an eye on all of these processes. We are not actively investigating this process that you are talking about, but our people are quite aware of it.

**Mr. Burr:** In the area in which I live, we have, I suppose, thousands of homes that are on septic tanks and we will have to have a sewage system and sanitary sewers and the expensive tie-ins.

**Hon. Mr. Auld:** You would still have to have that, though.

**Mr. Burr:** Is it possible that one of these various systems we keep hearing about would enable us to convert to some system like this and forego the sanitary sewers?

**Mr. Caverly:** You have to look after your bath water and your sink water. How would you do that without a sewer if the area is unsuitable for septic tank and tile beds? This, I think, becomes the problem.

The second problem is how do you wean a Canadian citizen away from the flush toilet? I haven't got an answer for that. The thing that might go over quite well in Sweden might not be acceptable here.

**Hon. Mr. Auld:** Do you think "wean" is the apt term there?

**Mr. Caverly:** It is the same thing, you know, as this recycling of water in a household. I don't know whether I would relish taking a cold drink of purified sewage out of my tap no matter how good it was.

**Hon. Mr. Auld:** We did that in Egypt.

**Mr. Burr:** Could you explain the Wallaceburg system to us? I know it is primarily for cottages where they are far removed from municipal systems.

**Mr. Caverly:** Mr. Walkinshaw here has been active in it. As I understand it, this is

really a small, modified, activated sludge plant. Is that not right?

**Mr. W. M. Walkinshaw** (Director, Private Sewage Disposal Branch): Yes, that's right.

**Mr. Burr:** Could we have an explanation on it?

**Mr. Caverly:** Would you like to—this is Mr. Walkinshaw, the director of our private waste branch.

**Madam Chairman:** Does that conclude for you, Mr. Burr?

**Mr. Burr:** I would like to hear the explanation.

**Mr. Walkinshaw:** This is a small modified activated sludge plant for an individual home. It is now under testing for a period of 12 months to see how it will react under different loading conditions and different weather conditions and so on. They are also starting to put in a few field test installations to see how they act there. We hope at the end of this 12-month period to be able to predict fairly well whether the plant will do the job that it is required to do, or not. Of these field test installations, will be put in only in places where there is already a problem with a very few exceptions, possibly five out of 100. In other words they couldn't possibly make things any worse than they are now in the areas in which they are being installed.

The other feature about them is that they are all followed by a finishing sand bed, a very small tile bed that will polish the effluent and should protect the environment. There won't be discharges into the water, the effluent will just go into the soil after passing through this sand bed.

**Mr. Burr:** Would you say that it is an improved septic tank system?

**Mr. Walkinshaw:** No, it really isn't like a septic tank system at all. It produces an aerated effluent, whereas the septic tank produces an effluent that has no oxygen in it when it goes into the tile bed. So this will produce an aerated effluent to go into the tile bed and we think that it may be possible to use the smaller tile beds with the aerated effluent. This is something it will take quite a bit of study to prove out.

**Mr. Caverly:** One of the things we have to look very hard at, when we are getting into a mechanical plant on an individual household basis, is the ease of operation of this

system by the householder, and the reliability of the equipment so that it would minimize breakdowns. In the oil burner industry, if a furnace breaks down in the middle of winter you are going to get it fixed pretty quickly because you are running out of heat. But will the same hold true about a sewage plant if it breaks down? Is the householder going to be that Johnny-on-the-spot to get—oh, I shouldn't have used that word—is he going to be that quick and that eager to get this repaired? I think this is the question we have to answer in evaluating something like this. Is there a service setup, such as an oil burner service setup, where 24-hour service is available on the equipment?

**Mr. Burr:** The price of this Wallaceburg unit is competitive with the other system—tying into sanitary sewers and paying for them. That is why I was wondering whether there was any possibility of using them as an alternative to septic tanks. In the Windsor area there is housebuilding going on in sections for which there are no sanitary sewers as yet. What would be the possibility of putting one of these systems into a new home, at least outside the new home, in place of a septic tank? Just as an experiment?

**Hon. Mr. Auld:** I would sum it up this way: We are on the horns of a dilemma constantly. We are anxious to encourage research and development in these fields where improvements and lower costs and so on are possible, but we are rather loath to approve anything and have people make a substantial investment in it if it isn't going to work.

This applies to quite a number of devices that have been presented to us in the year that I have been around. They all sound great. But as Mr. Caverly says, what happens if it breaks down? Can it be serviced properly? What are its characteristics and so on? What we have done is encourage experiments in those areas, as Mr. Walkinshaw says, where you can't make the situation any worse. So if it doesn't work we haven't created any new problems.

The traditional septic tank, properly installed with proper soil conditions and adequate capacity, is wonderful because it works quietly by itself. It doesn't need electricity and it doesn't need service. It only needs cleaning out every four or five years or so, and there are service people, most of whom are properly trained and equipped, available to do it.

**Mr. Burr:** Well, then, you are really endorsing septic tanks. That is what we have



at our house and in all the surrounding area. But we find that we—

**Hon. Mr. Auld:** The one thing we can endorse, because we have had lots of experience with it, is the septic tank system when, as I say, it's properly installed. Hopefully we will be able to endorse some of these other things which will solve problems in areas where you can't really install septic tanks properly or economically. But we don't want to be precipitous in doing it.

**Mr. Burr:** Are you going to force those areas, in which the septic tanks are working satisfactorily, into the sanitary sewer system?

**Hon. Mr. Auld:** Only in an area where there may be a few septic tanks and where a municipal system has to be installed to solve other problems, to provide for expansion or for some other reason. Windsor has made a very strong plea, as you know, for authority to require households that are on septic tanks, which may or may not be totally satisfactory, to hook into their municipal system extensions which are presently under way.

Now I don't know what the result of that will be. We have discussed it with TEIGA. My own feeling is that probably the best way to proceed is to give a municipality that authority but not make it mandatory. So that the municipality, which is in the best position to judge, can see how to be fair to everybody.

**Madam Chairman:** Anything further, Mr. Burr?

**Mr. Burr:** That is all for now, thank you.

**Madam Chairman:** Mr. Ruston is next.

**Mr. Ruston:** I was wondering, Mr. Minister, about how many provincial projects would you have on the drawing boards, or close to being ready for construction approximately?

**Hon. Mr. Auld:** Quite a number, I can tell you that.

**Mr. Cockburn:** Your question, I think, Mr. Ruston, was how many projects do we have under development at the present time?

**Mr. Ruston:** Yes, I would think more—some are not necessary if they haven't got very far—I am thinking of those which are at a stage where, within six months, they will be ready to call for construction, or something?

**Mr. Cockburn:** In total we handle, as a rule, 350 to 400 projects at a time. At the

present time, say till mid-August, the end of August, we conceivably could put 41 small projects under construction, call for tenders for about 41 to 45 projects.

**Mr. Ruston:** Are these sewage projects?

**Mr. Cockburn:** Our normal ratio of projects is one-third for water and two-thirds for sewage.

**Mr. Ruston:** When you say 40 or 45, you are talking about both sewage and water projects?

**Mr. Cockburn:** Yes.

**Mr. Ruston:** Mr. Chairman, I might have something more for Mr. Cockburn later, but in connection with these projects, I understand that under the agreement between the federal government and the United States, the federal government is committed to assist the province in financing these projects. I would like to know how much the federal government has committed to these projects at the present time.

**Hon. Mr. Auld:** Very briefly, to give the history of this, Central Mortgage and Housing Corp. previously had budgeted a certain amount per year for its loan of two-thirds, 25 per cent of which is forgivable or written off, which works out to be a 17.5 per cent subsidy on a yearly basis. The then Ontario Water Resources Commission ran into problems because CMHC has a calendar financial year. We'd have a whole lot of things going when they would call in mid-September and say they were sorry, they had run out of money and we would have to wait until January. This caused some financing problems for us. At the time the US-Canada agreement—well, the Ontario-Canada agreement—

**Mr. Ruston:** Well, in turn, you had an agreement with Canada, yes.

**Hon. Mr. Auld:** CMHC rearranged its financing and said in effect: "We can guarantee you that our loans will flow as the projects come along." Therefore, that problem has been overcome.

They have indicated, based on the estimates we gave them, that they will have the necessary funds—that is, \$46 million for plants in relation to the lower Great Lakes and \$10 million for loans for the plants on the upper Great Lakes.

**Mr. Ruston:** Is this in any way holding up some of these projects involving the millions of dollars we're talking about? There seems



to be a financing problem now, or are we waiting for approvals? Just where is the problem?

**Hon. Mr. Auld:** No, I mentioned—I don't know whether you were in the House the day I made a statement about this—that we had temporarily held up—

**Mr. Ruston:** Yes.

**Hon. Mr. Auld:**—continuing to call tenders on certain projects because as a result of a number of factors we had to reassess the higher subsidy rate, which meant that about 50 projects had to be recalculated and about 30 of them were financially possible. Another factor in all of these calculations was that many of them affected Municipal Board hearings and approvals.

Basically, at the moment, I don't anticipate any great problem. In fact, the number of projects that have been delayed is relatively small, because it takes a minimum of two years from the time you start dealing with the municipality until you are actually ready to call tenders. There are all the things like Municipal Board hearings and so forth that must go on.

**Mr. Ruston:** It might take three years.

**Hon. Mr. Auld:** Well, three might be closer to the average, and some of them take longer than that.

**Mr. Ruston:** Do you feel then, that, finances will be available for the projects that could be called this summer?

**Hon. Mr. Auld:** Actually, I've got the actual breakdown here for all of the municipal projects. Projects under active development—59; projects inactive—7; operating agreements to date—16; new projects requested—20; new projects accepted—27; preliminary agreements executed—24; rating proposals prepared—10; final agreements executed—24; final statements prepared—16; project folders prepared—10; OMB notices prepared—8; and current OMB hearings—2.

**Mr. Ruston:** I don't want to get into anything visual, but I was wondering if you would have information available on Belle River, Wheatley or places like that? Do you have that kind of information available?

**Mr. Caverly:** If you ask for specific ones, Mr. Ruston, I think Mr. Cockburn can bring you that information.

**Mr. Ruston:** Well, Wheatley and Belle River are really the two I was most in-

terested in—and that's why I questioned the minister about the financing. I think these projects are among the most important things we should be financing, and we must find funds for these projects. I hate to see them held up because of not having the funds available. In my opinion, the water and sewage problem is one of the most important things we should be looking at. I know that the cities have an air problem, but in many parts of Ontario the sewage and water problem is very serious and people are prepared in most cases to pay the cost if it's within reason. I simply hate to see them held up because of not having finances.

**Hon. Mr. Auld:** I couldn't agree with you more.

**Madam Chairman:** Anything further, Mr. Ruston?

**Mr. Ruston:** I think Mr. Cockburn is looking up something.

**Mr. Cockburn:** The Wheatley project is not in that category, Mr. Ruston. It's not planned for completion of construction until mid-1975. The report is under review now. The site of the lagoon is in question; it's in provincial park property. There are some negotiations with the provincial park people.

**Mr. Ruston:** Have we not yet got that agreement with the provincial park people for that project? That has been under discussion for a number of months. With 300 acres of land, and since it apparently is a logical place for it, it seems too bad that it has taken this long. But I guess I can't blame you fellows; I think it must be the Ministry of Natural Resources we're going to have to come.

**Hon. Mr. Auld:** There has been another proposal that the equivalent amount of land be acquired to add to the park—

**Mr. Ruston:** Yes, I understood that.

**Hon. Mr. Auld:**—and then to deal with the park's sewage, too. Is that not correct?

**Mr. Cockburn:** Yes, the basic question is the one you commented on, the question of buying more land in exchange for what we want. It's a policy decision right now.

**Mr. Ruston:** Well, that's fine.

**Mr. Caverly:** I think they're very reluctant to give up any parkland, and I can't blame them for that.

**Mr. Ruston:** Well, that's true, but recently I saw a cartoon showing a fellow who had driven up with his family in a big station wagon; and when all the kids got out on the beach with portable radios, an umbrella and so on, there was a big sign saying; "Polluted water," and they couldn't go in swimming. So which is more important? We like parks but, on the other hand, I think sewage is more important than a park.

**Hon. Mr. Auld:** Well, it certainly comes with the park.

**Mr. Ruston:** I think they bring it first. What about Belle River? I think it would be in the latter group, wouldn't it?

**Mr. Cockburn:** Yes, it's at the Municipal Board stage now. It has been advertised down there, and while I don't recall whether we had any objections, I would assume that we would have a hearing there toward mid-summer.

**Mr. Ruston:** Well, that's all I have right now. Thank you.

**Madam Chairman:** Mr. Good is next.

**Mr. J. Riddell (Huron):** Madam Chairman, Mr. Good gave me permission to say something before he spoke.

**Mr. Good:** That's right.

**Mr. Riddell:** I think my question is somewhat related to the one that Mr. Ruston asked. First of all, Madam Chairman, may I say to the minister that Dr. Mills, the medical officer of health, would be quite pleased to be given, if indeed this materializes, the services of two technicians which you've promised him, to investigate the sewage problem that exists at Grand Bend at the present time. By the way, I would strongly advise that if you have a young family, do not allow them to swim at Grand Bend at the present time because last weekend they said the sewage that was pouring out of straight pipes onto the beach and into the lake was quite fantastic.

We are looking forward to the services of these two technicians, to try to prevent a problem which we already have! Last year we were plagued with hepatitis and this year, with kids swimming in that kind of water, I know it's going to be worse yet.

Anyway, the question I want to ask: It's rather apparent, considering the cyclical change of the water levels in the Great Lakes, that land lying in close proximity to the shoreline is not too stable. Therefore, to my way

of thinking, it's rather futile to construct septic tanks and weeping beds on land that is subject to periodic erosion. It would appear to me that a better system of handling sewage on such land would be by means of collection chambers and pipes leading from the homes and the cottages to these collection chambers and thence to treatment plants.

Should you not be making provision within your ministry for funds which municipalities could rely on in order to construct such sewage disposal systems, utilizing pipes and collection chambers rather than septic tanks and weeping beds?

**Hon. Mr. Auld:** First of all, I'd say that I don't see how we could have a separate subsidy system that would deal with that kind of a problem. The results of it are exactly the same as have appeared in other parts of the province where communities have grown, sort of higgledy-piggledy. Finally, as seems to happen inevitably, no matter what the soil and how good the septic tank systems are, an area can handle only so many. A similar problem exists in a lot of other communities that aren't by the lakes and it hasn't been caused by high water; it's been caused by a variety of factors.

I think it's our feeling, generally, that septic tanks are fine. If you have lots of land and not too many people, they'll work. But where you have a concentration of population, or you know you're going to have, it's better to start out with a proper sewage and water system in the first place.

There is a study going on at Grand Bend at the moment; it's a project under development for sewers. In fact, I had a letter this week from council, I think, or the clerk or somebody suggesting that we should expand the size of the project to include some of the township around.

**Mr. Riddell:** Yes, I'm familiar with this. There are three townships and the town of Grand Bend and it's been suggested they all come in together and pay for the construction of a treatment plant rather than a lagoon system which I understand your ministry has been investigating.

I receive lots of objections to a lagoon system. As a matter of fact, I have a petition on my desk at the present time, with names, which I will be submitting to your department. The people are definitely against a lagoon system.

As a matter of fact, I thought that it was the opinion of you and your staff that a lagoon system was a last resort type of thing?



And if you could construct something of a different nature to handle sewage, you wouldn't consider a lagoon system. Yet, apparently, some of your staff are out testing land for a lagoon.

**Hon. Mr. Auld:** Yes, you might answer it, Dave, but basically it's a matter of cost and size. Carry on.

**Mr. Caverly:** I think you're right to a point, sir, but in the whole scheme of things lagoons have a niche. I don't think that a lagoon, in any way, can compare with a proper conventional secondary treatment plant like an activated sludge plant.

We have to face the realities of costs and in these very small places they wouldn't have sewers if they had to go into a plant. You see, with a lagoon there's virtually no operation, or it's very minimal.

The drawback, of course, is that they take up large areas of land and that's a minus especially when you're in a prime agricultural area. In the wintertime when there's an ice cover on them of course their efficiency goes down. You have an odour problem for a few weeks in the spring after the ice breaks up and until the algae and the sunlight and the wave action starts to take over.

There are pluses and minuses. In the case of Grand Bend, if we were just dealing with Grand Bend alone, the size of that place would dictate a lagoon. If you're now going to enlarge the project to include these other areas there may be merit in having a hard look at changing it. The problem, of course, is that if we change now, in midstream, it's going to delay the thing maybe another nine months to a year. That bothers us a little bit, but I think we have to weigh the pluses and the minuses on this thing.

**Madam Chairman:** Mr. Laughren.

**Mr. Laughren:** Thank you, Madam Chairman. I wanted to bring up the problems that are being encountered in the unorganized areas in the province concerning the quality of water supply.

At the present time, it appears that those people are truly in a no-man's land in that no matter who they turn to they are told that that ministry would be encroaching on some other ministry's jurisdiction. Literally, it's like a maze. The people run around from one ministry to the other and nobody seems to be able to give them the answer.

This is despite the fact that the water tables in some of these areas are being polluted because of the inadequate disposal of

sewage. Indeed, in some cases people are being told—and I would really appreciate your comments on this—that outdoor toilets are better than septic systems. The only conclusion we can draw is that you are placing the people in these towns in the untenable position of being forced to live with outdoor toilets in the mid-1970s. No ministry will allow those people to install septic systems.

It's not the fault of the people that they live on lots which may be 5,000 sq ft because those, indeed, were Crown lots many years ago. That's how they bought them and that's the size they bought many years ago. There's no place to which they can turn.

It seems to me that in the larger municipalities the sewage systems are built and people pay for them out of tax revenues. The province subsidizes them, I believe, by 75 per cent now but those people cannot even get assistance for holding-tank systems whereby the holding tanks can be pumped out every so often. Maybe once a week, I think; it might require that often. I really do wonder what you see as the solution for these people because there is really a significant number of them.

**Hon. Mr. Auld:** I suppose you're talking about those communities that are in unorganized territory?

**Mr. Laughren:** That's correct.

**Hon. Mr. Auld:** Our problem, basically, is that in our legislation we can only deal with a municipality. In effect, the municipality undertakes the liability to collect the rates and pay us back for whatever the capital and operating costs are after whatever subsidies have been applied.

However, we are quite aware of this problem. There are two, for instance, before us at the moment, Armstrong and Mattice. We have asked TEIGA to produce some kind of new municipal organization, if the place can't be made into a township or into a town or a separated town or something like that, so that there would be some entity that we can deal with. We are very well aware of this and the same problem applies to some other services as well.

In the meantime, we are going ahead with studies to see what solutions will be required. Generally speaking, water is the biggest single problem because if you have problems with sewage disposal it affects the water, as you say. That's all I can say at the moment.

**Mr. Laughren:** What is your position, if I could interject, on the desirability of outdoor



toilets on a small lot as opposed to a septic tank on a small lot? Which will do more harm to the water supply?

**Hon. Mr. Auld:** Well, I'm not an expert in the maintenance of a privy, although I have one on my island, which is 50 ft back from the shoreline. I had to move it when our inspectors came around last summer.

I guess Mr. Walkinshaw might be the one to comment. I assume that if you have a septic tank system which is malfunctioning and leaking with all the waste water in the household put in it, that a properly operated privy would be better—one where you have an earth pit, you clean it out and you dispose of the material in some place away from water. Is that right, Max?

**Mr. Walkinshaw:** That is right.

**Mr. Laughren:** Are you suggesting that is actually done? You know that is not done. That's not the way—is that the way the people in the province operate a privy?

**Mr. Walkinshaw:** No. They just move it.

**Mr. Laughren:** Yes, That's what they do. Now couldn't we come to some kind of an agreement as to what is the most damaging to the water supply on a small lot, an inadequately sized lot, less than 5,000 sq ft? Is it an outdoor privy or a septic tank?

**Hon. Mr. Auld:** We will get Mr. Walkinshaw to tell us.

**Mr. Laughren:** It's incredible that we have to be arguing this in 1973.

**Hon. Mr. Auld:** I agree.

**Mr. Walkinshaw:** We are trying to reach a position where we don't approve new lots unless they are good enough to sustain a septic tank when the owner wants to put one in. So that if we approve new land on that basis, any new lots that are created would be good enough to sustain a pressure water system and a septic tank sewage disposal system.

We don't care after that. If the owner decides to start off using a privy it's all right, as long as he doesn't put in a pressure water system into his premises. If he locates a privy properly it won't be harmful. It's quite a satisfactory thing, but it isn't capable of handling all the water that you would use once you have a pressure water system.

So that there isn't a choice to make. It isn't a case of one not being as good as the

other, it is just a matter of what you want to do with it.

**Mr. Laughren:** Well, wait a minute now. If you cannot come to a decision as to which is more harmful than the other, then you might as well allow those people to put in a septic tank on an undersized lot.

**Mr. Walkinshaw:** Well, I don't think I said quite that. We are trying to get lots that are capable of sustaining a septic tank system.

**Mr. Laughren:** No question about that. We are talking about existing lots where people have had outdoor privies for 50 years, and now they want to improve their lifestyle somewhat and put in an indoor toilet with a septic system—and they are not allowed to do it.

**Mr. Walkinshaw:** Well, they will greatly increase their use of water if they don't have to carry it. And that means that they are putting additional water on to the lot as an increased load, and it has to be disposed of.

**Mr. Laughren:** Well then, are you still saying that those people should not be given permission? I know it's the Ministry of Health which does that, but are you saying that those people should still not be given permission to install a septic system?

**Mr. Walkinshaw:** Yes. They should not be given permission if the lot that they are on isn't capable of disposing of the sewage there.

**Mr. Laughren:** Right! Then what you are saying—and it's not even debatable at this point—is that they must continue to live with outdoor toilets?

**Mr. Walkinshaw:** There may be other alternatives. We have been discussing holding tanks as a possibility.

**Mr. Laughren:** But you won't subsidize them. How the heck can you ask these people to absorb the cost of a holding tank when, for example, there is no truck for 100 miles or 150 miles to drain the holding tanks? We are not talking about half a dozen people in northern Ontario. I would suggest to you we are talking about thousands of people across the north.

**Mr. Walkinshaw:** Yes.

**Mr. Laughren:** And I think you are really remiss in not coming to grips with this by now. This isn't a new problem. It's been in existence for many, many years.

Why don't you at least allow—just as you allow a 75 per cent subsidy to municipalities—why don't you at least allow a 75 per cent subsidy on a personal basis; or maybe say that so many people in the community have to sign up to have the holding tank emptied?

**Mr. Walkinshaw:** I really can't comment on the rationale behind the subsidy part of it.

**Mr. Laughren:** But the minister could.

**Hon. Mr. Auld:** I think that you are sort of in the policy field, which is my end of it. I don't see how we could work out an equitable formula that would only subsidize holding tanks when, in fact, as we have discussed earlier, as far as communities are concerned, there are some heavy burdens on homeowners to pay for water and/or sewage services even after the subsidy.

I don't know that we should be subsidizing directly an individual to put in a holding tank when we don't subsidize an individual to put in a septic tank. In many cases, because of our regulations, we require perhaps an extra \$3,000, \$4,000 or \$5,000 worth of fill to be put in to make a site suitable for a septic tank system.

**Mr. Laughren:** Well then, start granting approvals for septic systems on these lots. Otherwise, how can you live with the fact that you are saying to these people that they will continue to have outdoor toilets?

**Hon. Mr. Auld:** Because the rationale is that there will be less harm to the ground water and so on than there would be with a malfunctioning septic tank system. As Mr. Walkinshaw said—

**Mr. Martel:** Why do you say "malfunctioning system"? That is a red herring. What if it is a properly functioning septic system?

**Hon. Mr. Auld:** If the soil conditions are such, it can't be a properly functioning system.

**Mr. Martel:** It can't?

**Hon. Mr. Auld:** It can't.

**Mr. Martel:** Yes, but you are saying that all those lots in northern Ontario that the member is talking about are all such that none have the proper type of soil which would allow a septic system to operate viably.

**Hon. Mr. Auld:** They may have the proper type of soil, but not enough of it—not a big enough area.

**Mr. Walkinshaw:** That is the problem.

**Mr. Martel:** Oh. That's just not—

**Mr. Laughren:** Can we not—

**Hon. Mr. Auld:** That does not just apply to northern Ontario. I can take you to two communities in my own riding where the land was sold many years ago, not primarily by the Crown, and there are a whole lot of little wee lots and they are having problems now.

**Mr. Laughren:** Could we get some kind of commitment from you to try to arrive at some kind of solution, because surely you would agree that the solution isn't to maintain the status quo?

**Hon. Mr. Auld:** I agree and I think, in effect, I said this, that we are actively engaged with the municipal branch in TEIGA—

**Mr. Laughren:** Wait a minute!

**Hon. Mr. Auld:** —to set up an organization so that we can put in—subsidize probably—a proper system of sewage and/or water.

**Mr. D. M. Deacon (York Centre):** Why do you have to have an organization? Why don't you change the legislation so you can deal directly with the public, as Ontario Hydro does?

**Mr. Laughren:** That is not going to solve the problem.

**Hon. Mr. Auld:** I don't think in the long term, because of other local problems that they have got to sort out—but I suppose there is nothing to prevent us from being in the retail business.

**Mr. Deacon:** None whatsoever.

**Hon. Mr. Auld:** Except the administration.

**Mr. Deacon:** Ontario wouldn't have the hydro power it has—

**Mr. Martel:** We are talking about a terminal problem, Mr. Minister. You are not talking about something that is escalating, because you have got it under control with the lot sizes now. The lot sizes have to be a minimum of 15,000 sq ft.

We are talking about a problem, which has been there many years, but isn't going to grow if TEIGA looks after it. And it is, with its insistence on lots being a certain size, whether they be on Crown land or municipal land.

We are talking about a problem that is not getting any bigger, it's not going away. You



know where they are and it isn't something that you can't get a handle on very quickly.

**Madam Chairman:** Mr. Laughren, do you have other points that you want to raise?

**Mr. Laughren:** Yes, there was one other point I wanted to raise, Madam Chairman.

**Mr. Martel:** Don't leave this one so readily. Pin them right down.

**Madam Chairman:** Mr. Martel, Mr. Laughren has the floor and I think he was doing very well.

**Mr. Martel:** I was just giving him a little bit of advice, Madam Chairman, on how you try to wheedle something out of the minister.

**Mr. Laughren:** He is never remiss at that.

**Madam Chairman:** Mr. Laughren did not interrupt you, Mr. Martel.

**Mr. Laughren:** go ahead.

**Mr. Laughren:** Thank you, Madam Chairman, I feel obligated to pursue the matter.

**Mr. Martel:** Good!

**Madam Chairman:** That is your decision, Mr. Laughren.

**Mr. Laughren:** Yes. The one thing that maybe would put it in perspective about the undersized lots in unorganized communities would be some kind of an attempt by your ministry to determine how big the problem is. How many lots are we talking about? If it is in the hundreds, or the thousands, or the tens of thousands, maybe that could have a bearing on the kind of policy that you would see fit to enact.

How you see organizing the community, which is a long-term kind of thing, as the solution to disposal of waste and the contamination of water on undersized lots is completely beyond me. And your argument about the subsidy; I just don't see that that is a necessity. Most of those communities have a government agency in them, a ministry; most of them have Natural Resources complexes in them and certainly there could be something worked out there, I would think.

Have you ever been in the town of Gogama? Delightful little town, just delightful. It really should have been the location for a northern Ontario Place, you know. Anyway, aside from that, there is an example of a town that is divided between the haves and the have-nots—in terms of water supply, Madam Chairman, just to be sure we are on

the topic here; I can see your eyes narrowing at me. And—just to give you a picture so you can understand the problem—when you drive into Gogama it is a beautiful approach on the lake and you see nice white houses, well-kept manicured lawns, nice clean Ministry of Natural Resources offices and staff houses and a nice OPP building and OPP houses—

**Mr. Martel:** Sewers and water.

**Mr. Laughren:** Sewers, water—it is a beautiful little town. And then you come to the CNR railroad tracks and you cross over the tracks and it is as if you had moved from the 20th to the 19th century because the houses there receive no water supply and have no sewage treatment at all.

It really would be an interesting study on the part of your ministry to see the kind of effect that providing services can have on a community, because I would suspect that that is one of the reasons the other half of the town is in such bad condition in terms of housing and in terms of the way the yards are kept, the streets—paved streets, too, that is another thing. I really think your ministry—

**Mr. Martel:** That is where all the socialists live, by the way, on the other side of the street. They work for the government; they are all socialized.

**Mr. Laughren:** They are well looked after, I tell you.

It is not the fault of the people in the ministry there.

**Mr. Martel:** They vote Tory, by the way.

**Mr. Laughren:** What I am attempting to get to, now that you have the picture of Gogama, that delightful hamlet, is that your ministry has an opportunity there to expand the sewage plant and the water treatment plant to include the entire town. It would require some money and it would require some engineering work I am sure, but you have two units there already and it would not require an enormous expenditure of your ministry's funds to extend it to the whole town.

I have some correspondence on the matter and you know the real reason that it has not been done is the reason that I gave earlier—that you didn't want to set a precedent by expanding from the Ministry of Natural Resources into the rest of the community, which is a hell of a reason for not wanting to provide people with sewers and water. I



really think that you have a case study there, in that little town, that could perhaps be applied to other towns in northern Ontario. Are you familiar with the problem at all?

**Hon. Mr. Auld:** I know something of it. I have been in Gogama once or twice. I haven't been there for several years.

**Mr. Martel:** It hasn't changed much.

**Hon. Mr. Auld:** It does not have a municipal organization.

**Mr. Laughren:** That's correct.

**Hon. Mr. Auld:** That's the basic problem I think we have to deal with, first, and then I think some of these other things are relatively simple.

**Mr. Laughren:** You've got the two units there, that's what is so—

**Mr. Martel:** Grotesque.

**Mr. Laughren:** —frustrating about that. Grotesque, yes, about that town. I don't know how you can continue to hang your hat on the argument that they are not organized.

**Mr. Martel:** —for the civil servants.

**Mr. Laughren:** That's not one of the conditions in the operation of your ministry.

**Hon. Mr. Auld:** That is part of the question of supplying accommodation. No doubt it was more economical to put in a system for the number of units being built than to put in individual septic tanks, roads and so on. I am not familiar with the history of it. One of the things the group we set up last fall to look into this is going to report on just how big a problem it is and where the areas are. These are the first things, I guess, we really have to know.

**Mr. Laughren:** Well, I can tell you it is a serious problem, because there is chemical—gasoline—contamination in some of the wells in Gogama, so I think it is a very serious problem in that town.

Could I go to the next point I wanted to raise, Madam Chairman? It has to do with the spillage of gasoline from underground tanks, which contaminates the water supply. At the present time, the legislation, which, I believe, is under the Ministry of Consumer and Commercial Relations—

**Hon. Mr. Auld:** It is under the Gasoline Handling Act.

**Mr. Laughren:** —under the Gasoline Handling Act, is very weak, because it is designed for purposes of safety rather than environmental control. As such, it really doesn't provide the ministry with the kind of muscle that is necessary. For example, I am told that one gallon of gasoline spilled into a water supply—I stand to be corrected on this figure—can contaminate 174 million gal of water.

The only thing that can happen now is that the Ministry of Consumer and Commercial Relations can ask the oil company to clean it up, but if they don't clean it up, that's it. That's as far as they can go. It seems to me that's where your ministry needs to move in to supplement the legislation of that ministry.

**Hon. Mr. Auld:** In many cases, we are called to investigate when fuel—gasoline, particularly—is found in a water supply. Having had some experience in my own riding, I know that it is very difficult to find the source, particularly if there is a possibility of more than one source. You get into ground strata, type of soil, and how far things can leak. You can sometimes tell from analysis whether it is relatively new or old gasoline, because of some of the things that evaporate—I've forgotten the technical name for it—and we can require a cleanup if we can establish the source without doubt.

**Mr. Laughren:** If what? Sorry.

**Hon. Mr. Auld:** If we can establish the source. The real problem is establishing beyond reasonable doubt what the source is.

**Mr. A. K. Watt** (Executive Director, Water Resources Division): This is right.

**Mr. Laughren:** I am not sure what you are saying. You indeed do have the legislation to force them to clean it up. Is that what you are saying?

**Mr. Watt:** No, that is what the minister said. We investigate to try to find out where the source is and advise the people who are having the problem where they might get an additional source while the contamination is gradually being cleaned up through dilution.

**Mr. Laughren:** But is there any legislation to your knowledge that can force the oil company to decontaminate the water table?

**Mr. Watt:** I don't know that there is. Personally I am not aware of any.

**Hon. Mr. Auld:** We can force them to stop—

Mr. Watt: That's right.

Mr. Laughren: But it has already leaked in. You could force them to repair the leak perhaps.

Mr. Watt: How would you decontaminate a water table?

Mr. Laughren: Well, your people tell me they do it.

Mr. Watt: I think by pumping. Really, by just pumping it out, flushing it. There may be some chemicals you can add but basically it is a flushing operation.

Mr. Laughren: What's 174 million gal?

Hon. Mr. Auld: Among other things, it's a lot of water.

Mr. Laughren: Well, I don't know, it seems to me there is an area—

Hon. Mr. Auld: That is really a bit of a red herring, Floyd, though, because I suppose that is established on the basis of what the allowable amount of fuel in water would be, in parts per billion, or something, and still be safe for drinking, even though it wasn't very attractive. But you could dump a gallon of gasoline in an aquifer—it could leak into an aquifer, or ground water source—and if the aquifer were running at, say, 1,000 gal a day, and you pump that out, you would probably get all the contamination out after, perhaps, 50,000 gal.

Mr. Laughren: Could I give you an example of where your ministry disappointed a lot of people—again in Sudbury? It is to do with water. There was a fuel oil tank in a cottage on Lake Panache—or what they call Little Lake Panache. The owners discovered, possibly a month after it had happened, the line had broken. They noticed oil on the ice and when they went down there the owners discovered when they investigated closely that the entire 200 gal—it could have been 200 gal; the owner had had the tank filled up again, so he wasn't sure exactly how many gallons—had leaked into the lake. There was an oil slick all around the edge and some of it was on top of the ice which was just starting to melt so you could see the oil around the shoreline.

So these people put in a phone call to the Ministry of the Environment and the Ministry of the Environment people said, "Well, there's nothing we can do. But you had better get it cleaned up because there's a fine, you know." What those people were looking for

was assistance, guidance and direction as to how they should do it and what equipment they should use, where they should go to get the equipment and the personnel.

They went to the Environment people and there was just no assistance forthcoming until the residents on that lake went to the local municipality. They volunteered to send half a dozen men down with a truck and some baled straw and they proceeded to soak up the oil and try to burn it. But it was a terribly crude way of trying to solve the problem. Surely there is some expertise available?

Hon. Mr. Auld: I think I mentioned this in the House one day in answer to a question. We do not have funds to clean up other people's errors. Where we can find the source we require that person to do the cleanup. Now, the oil industry have set up a programme—

Mr. Laughren: Oh, I know that one, yes.

Hon. Mr. Auld: —and it works very nicely.

Mr. Laughren: But that is for oil trucks that might be in an accident.

Hon. Mr. Auld: But I think Mr. Caplice may know about that specific one.

Mr. Caplice: Yes, I think, Mr. Minister, it is a valid point that there is in certain municipalities an inability to get at a situation such as the one pointed out by Mr. Laughren here.

Over the next few months there is going to be a concerted effort on our part to get a number of municipalities, some 13 or 14 of the larger ones, organized with regional operations teams. Some of the municipal officials will be involved and some of our staff, as well as staff of the other ministries.

Windsor has now got a regional operational group working. Kingston has got one, Sarnia has one. We are working now on Ottawa-Carleton and we intend to move rapidly in Sudbury, Sault Ste. Marie and these other areas.

Mr. Laughren: Through the municipality, is it?

Mr. Caplice: Yes, we are going to work with the municipal officials and involve other ministries and local industries. We have had good co-operation with local industries in a number of areas, and we will be able to send a group or get a group to move and clean up spills.



Obviously somewhere down the road people are going to look to be reimbursed for taking this type of action. The ministry, where no liability can be proved, may have to be the agency that will ultimately reimburse at least part of these funds. We have done this on a couple of occasions but we are reluctant right now to assume such costs because we have no overall authorization to do so.

**Mr. Laughren:** And would you be able to do something about the unorganized municipalities too, so that perhaps one of the ministries would move in, because it can happen so very quickly.

**Mr. Caplice:** Yes, I think in co-operation probably with Transportation and Communications, Natural Resources and ourselves; that would have to be the basic resources in the unorganized areas. I think you would have a difficult time looking for industry or municipal assistance because usually such parties are not there.

**Mr. Laughren:** I just would hate to see it overlooked, because the unorganized areas of this province, you know, really have had short shrift for many years in things like this, where there just are no programmes laid out for them.

The last point, Madam Chairman, is that I think you would do your ministry employees a big favour with this, because I can tell you those in the Sudbury area were embarrassed when they couldn't offer—it wasn't their fault, they just couldn't—any assistance to the people on that lake.

**Mr. Caplice:** I think for a lower-level civil servant it takes some courage to assume responsibility for \$5,000 or \$6,000 in clean-up costs. Usually, if they'll place a call to the right level, there certainly is a willingness on the part of a lot of senior staff to authorize it. We did authorize one oil clean-up on Ipperwash Beach last summer. I guess in total we spent about \$17,000 as a ministry on this cleanup just before the July 1 weekend. The stuff rolled in from Lake Huron and there was nobody that we were able with certainty to pin any liability on. So the ministry assumed the cleanup costs. It took about \$17,000 and a lot of private manpower to do the job.

**Hon. Mr. Auld:** Actually, we have now a working understanding with Management Board because we had some discussion about this in preparing our estimates for authorization. We would be able to get a Management

Board order to deal with things like Ipperwash Beach and so forth and our big problem now, as Dennis says, is to get an organization which is available to do these things. But hopefully we'll find whoever causes it and they should properly pay. That is if you can find out who caused it. The first thing you do is get it cleaned up.

**Mr. Laughren:** Thank you.

**Madam Chairman:** Thank you, Mr. Laughren. Mr. Good.

**Mr. Good:** Mr. Deacon has another appointment so I'll let him speak first. When everybody else is finished I won't have anything to say.

**Mr. Deacon:** Well, thank you. The point I want to come to again is the one we were discussing earlier about the northern Ontario problem. I feel the minister should bring in or introduce, legislation which would give him the power to have the same deal as Ontario Hydro has with the ordinary people rather than dealing through a municipality necessarily. There seems to be no rational reason why this can't be operated in the same way as the Hydro is.

Ontario would never have Hydro all over if it had been waiting for municipalities to be incorporated everywhere. I would urge the minister to do this right away. I just don't think that that's a reason to hold up. You can have a rate for municipalities, and you can incorporate in that rate some of the same elements of economics that you do in your wholesale rate to the municipalities when you're working out these projects.

As the minister well knows, I think it's crazy for us to have each project stand on its own feet. I think the minister should be pressing his colleagues to have a rate that's common across the province. There's no question that it costs a lot more to put in systems in the rock country. Are we going to just have all of our development occur in areas where it's easy to dig up the land, in other words, destroy our agricultural land? That's what we're saying when we insist on having a rate for each project so that it's self-liquidating. I just don't see it.

No matter what your subsidy programme is it doesn't take into account the fact that in some areas the costs are bound to be higher, due to no fault of the people in that region, but purely because of the conditions they are working under. Yet, there's good reason in almost all those areas for there to



be sewage treatment. And it's up to us as a province to provide it.

I would like to ask the minister what money is in his budget to find a way, other than the old privy, of handling individual recycling of sewage? Have you got something in there? Have you something beyond the black boxes that have been developed for years and aren't too satisfactory? What is the ministry doing in the way of research to handle what must be the most important recycling problem in Ontario?

**Hon. Mr. Auld:** That actually, Madam Chairman, would be under the last vote—laboratory and research. Perhaps I could just say briefly that we are involved in this field, as Mr. Walkinshaw said, I guess before the member got back. We've got some projects that are being done on our behalf by the Ontario Research Foundation and some other things that we are looking at in a general way in our own programme.

**Mr. Deacon:** Have you, for example, more than one project of this sort for the rock country, for our Laurentian Shield problem area? Have you a competition going on or something that would really give people an incentive to develop new types?

**Hon. Mr. Auld:** There is a system which has been developed in Sweden by the vacuum cleaner people, Electrohome,—

**Mr. Good:** Electrolux, in fact.

**Hon. Mr. Auld:** —which is rather an interesting one. However, there are some problems at the moment with valves, I think. When these are solved we are seriously considering putting this kind of a system in one of the smaller municipalities, perhaps in the Ottawa Valley.

**Mr. Deacon:** Then we'll be paying good-sized royalties to Sweden for their initiative in developing such a thing.

**Mr. Martel:** They're always ahead of us.

**Mr. Laughren:** You noticed that too, eh, Don?

**Mr. Deacon:** Isn't it wise for us to have projects and really get at this in a major way? When you think how much of our country and how much of our province should be available for development if it weren't for this problem, then it's a really important thing. I think of the fact that because of the restrictions of your branch on where people and how people can build,

housing lots on good serviced land are astronomical in these areas.

This is one thing that should never have occurred. There shouldn't be a shortage and you are just adding to the speculation in that country, where there really shouldn't be any shortage of land on which to build homes, as you are in this part of the country down here.

**Hon. Mr. Auld:** I don't think that that really is the entire problem because, in fact, the problem of housing is not really related to the type of land. It is related to urbanization and industrial concentration and that kind of thing.

**Mr. Deacon:** No, it is really related in every case. I would like to see any evidence that it is other than related to the availability of places where people can build, regardless of whether it is down here or up there. When I see people ask prices of several thousand dollars for a building lot in towns in northern Ontario, just because of the shortage of building lots which have serviced land, I think it is criminal.

I think your government should have taken steps long ago to eliminate any possible shortage in these towns. So many towns are crying for more services but they don't get them; they can't afford them. Yet the agreements you force these municipalities to enter into in order to expand their sewage projects have no bearing whatsoever on the availability of this government to provide the moneys you are now going to be putting into projects this year. They have no bearing whatsoever.

You could go ahead and put those projects in and not have those agreements at all. It is your decision, but you have got this policy which you have followed for years and which I am sure has been the major cause of the problem—not just in southern Ontario but in northern Ontario—of people having to pay through the nose for places to live.

**Hon. Mr. Auld:** I was told the first time I visited Sudbury that life would be a lot less complicated there if Sudbury had been built about three miles west.

**Mr. Martel:** We found that out long ago!

**Hon. Mr. Auld:** But it is there now and so you have to put the services in.

**Mr. Deacon:** One could have put in services. The province could have put in major

trunks and sewers to the west and development would have occurred to the west if that had been what the province had wanted. The province has never led or given a thrust to development by putting in the services ahead of time and ensuring that the services are available at a modest cost, similar to what the boroughs are charged by Metro, to a municipality developing in that area. That is what you should be doing instead of making these municipalities enter into these stupid agreements.

**Mr. Martel:** A little land dike would help, too.

**Madam Chairman:** Do you have some more points you want to raise, Mr. Deacon?

**Mr. Deacon:** Those are the main points. I get so upset every time I see these estimates come up and I realize how difficult it is for a municipality to enter into an agreement with this government because these agreements are, in effect, a debt charge on the municipality. They also encourage a difference in rates between one part of the province and another and they arbitrarily encourage development to go in areas where it is easiest for us to put in services. That is, areas where, on the lake, we are on good agricultural soil and we can dump our sewage in the lake after it has been treated.

**Hon. Mr. Auld:** Of course, the whole purpose of the capital grant structure has been to try to level out these costs in the very high-cost areas.

**Mr. Deacon:** You could really level it out if you take the same approach as Ontario Hydro takes. That is, have a standard rate to a municipality which you can use as a basis, if it is wholesale cost of services, and have a standard rate across the province.

If we had had a variation in Hydro costs from one part of the province to another, there would have been a riot. We didn't do it.

**Hon. Mr. Auld:** We used to have a hell of a variation.

**Mr. Deacon:** We don't have it now and that is one of the things about the whole setup of public Hydro. We haven't got it—we have done away with it.

Services of this sort, water, sewers and hydro, are things that the government can supply better than any private organization because it is in the position and has the resources to have things levelled out across

the province. This branch, this department, does nothing to help the situation it should be helping. I think you as a minister have a great responsibility to get the policy changed.

**Madam Chairman:** Now, my next speaker is Mr. Good. Mr. Good, considering the time, do you want to start now, or would you like us to recess and we can start promptly at 8 o'clock?

**Mr. Good:** Well, I can start now, or if you want to quit now—

**Madam Chairman:** All right, whatever you want.

**Mr. Martel:** Could I ask a question?

**Madam Chairman:** Well, could you just keep your question, Mr. Good?

**Mr. Martel:** It isn't a question. I understand there are some complexities about sitting tomorrow that can't be overcome. Is that right?

**Madam Chairman:** The House is in session tomorrow morning and so are we.

**Mr. Martel:** It is my understanding that there are certain people who can't be in attendance tomorrow and are looking forward to the committee not sitting. I was wondering if we could get that clarified.

**Madam Chairman:** Mr. Martel, are you suggesting that we take a short week? Because if you are, I think, perhaps you have to raise this in the House.

**Mr. Martel:** Madam Chairman, would you let me finish? Isn't the minister tied up tomorrow?

**Hon. Mr. Auld:** No, the minister has a long-standing engagement to speak at a school, in, of all places, Brockville, but he was able to arrange to fly down tomorrow after 1 o'clock, and get there hopefully, by 2.15 p.m.

**Mr. Martel:** Oh, well, that is fine, then, if the minister has been able to find a way out, because I was prepared to move that we do not sit tomorrow, Mr. Minister, to accommodate you.

**Mr. Parrott:** Is that one for you and two for him, or two for you and one for him?

**Mr. Martel:** Oh, no, to accommodate the minister. I was willing to move we not sit.

**Mr. Parrott:** The member's generosity is overwhelming.

**Madam Chairman:** Well, Mr. Good, I think that inasmuch as it is about two minutes to 6 o'clock, perhaps we will recess now and—

**Mr. Good:** All right. Fine.

**Madam Chairman:** —commence with you at 8 o'clock. We will recess now until 8.

It being 5:58 o'clock, p.m., the committee took recess.

## CONTENTS

---

Thursday, May 24, 1973

Ministry administration programme, concluded .....	S-615
Water management programme .....	S-627
Recess .....	S-648





# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of the Environment**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Thursday, May 24, 1973**

**Evening Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

# LEGISLATIVE ASSEMBLY OF ONTARIO

THURSDAY, MAY 24, 1973

The committee resumed at 8:05 o'clock p.m., in committee room No. 1; Mrs. M Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ENVIRONMENT (continued)

On vote 1802:

**Madam Chairman:** The committee will recommence; and Mr. Good has just arrived. Please proceed Mr. Good. We'll wait a moment while you get your breath.

**Mr. E. R. Good (Waterloo North):** Thank you, Madam Chairman. First of all, I would like to pursue the matter on which Mr. Deacon was talking when we adjourned at 6 p.m.

**Madam Chairman:** I'm sorry, I didn't announce, we were recessed, so you are still okay.

**Mr. Good:** And that has to do with the agreement arrangement. I looked up section 51 of the National Housing Act, where it relates to the loans made by the federal government to any province or municipality or municipal sewage corporation for the purpose of assisting in construction or expansion of sewage treatment projects.

Now, if you have a project in question, does the federal government lend money in individual amounts related to certain projects, or in lump sums to the province?

**Hon. J. A. C. Auld (Minister of the Environment):** Well, to either! If it's a provincial project it's loaned to the province, and if it is a municipal project to the municipality.

**Mr. Good:** All right. We'll say it is to the province, and I'm relating now to subsidized provincial projects in small municipalities. When the federal government lends money for that—

**Hon. Mr. Auld:** You mean provincially subsidized projects?

**Mr. Good:** Provincially subsidized projects. In that case the province then gets two-thirds of the approved finished price from the fed-

eral government, and on the completion of the project it gets forgiveness on 25 per cent of the capital and 25 per cent of the interest on the borrowed money up until the time the project is completed. It says in the Act that: "This is to be secured by debentures issued by the borrower." Now who secures the debentures of the federal government's money, the province or the individual municipality?

**Hon. Mr. Auld:** If it is a provincial project there aren't debentures in that sense. If it is a municipal project the municipalities issue the debentures, as they always do; then the province secures the provincial ones and the municipalities secure the municipal ones.

**Mr. D. S. Caverly (Assistant Deputy Minister, Water Management):** The old OWRC used to issue its own debentures to CMHC, but since they are now in the ministry, the province secures the CMHC loans.

**Mr. Good:** This is what I'm trying to get clarified in my mind. When a municipality is doing a project on its own, the federal government buys its debentures for that project. Then they get—that's up to two-thirds of the project costs. Where do you go? To the public money markets?

**Mr. Caverly:** Two-thirds of the eligible parts, and it is only on sewage works. It is just the trunk sewers, pumping stations, force mains and treatment works. There is no CMHC involvement in the local collector sewers.

**Mr. Good:** No. Not on the collector sewers. In a project that you are putting into a small municipality, where your terms of reference are that you will subsidize up to 75 per cent — or to the extent that the municipality residents are not required to pay more than \$130 a year for a sewer, or \$110 a year for water—you make an agreement with the municipality. On the agreement that you make with the federal government, for that part they lend the money to the province in that case?

**Hon. Mr. Auld:** That's right. And I can't tell you the technical way that it is done.



I'm not sure whether the province goes through the mechanics of a bond issue and then hands it over to the feds as security, or whether—

**Mr. Good:** Well that's what I want to find out.

**Hon. Mr. Auld:** I think basically that's what happens, because that is the instrument—

**Mr. Good:** Because the Act says that the federal government may enter into an agreement with any province or municipality for municipal use. So in the case where you want to do a project in a small municipality, you then can borrow up to two-thirds of the cost of that portion of the work from the federal government. Is that correct?

**Mr. Caverly:** That's right.

**Hon. Mr. Auld:** And the security they have is in the form of a bond of the province, basically. We don't put it on the market and advertise it and such. I don't really understand that.

**Mr. Good:** No. In other words the federal government—

**Mr. Caverly:** We make an application for each project and we fill out the same application form that a municipality does.

**Mr. Good:** All right. What is the rate of interest? It says here it is determined by the federal government or the Lieutenant Governor in Council.

**Mr. Caverly:** It varies.

**Mr. Good:** Does it vary from one project to another or from one time of the year to another?

**Mr. Caverly:** I'll have to ask Mr. Heath.

**Hon. Mr. Auld:** We'll have to ask Mr. Heath.

**Mr. Caverly:** What are the rates?

**Mr. E. F. Heath (Director, Financial Services Branch):** The rates vary according to the rates set by the Bank of Canada. It could change quarterly or semi-annually, and sometimes it stands for over a year.

**Hon. Mr. Auld:** But it's the same for any project across the province at that time.

**Mr. Heath:** That's right. It's dependent upon the date on which the arrangement is made.

**Madam Chairman:** Excuse me, they are not getting this on the tape.

**Mr. Good:** All right, so the rate to the province is standard?

**Hon. Mr. Auld:** There's a tape problem?

**Mr. Caverly:** We're not getting it on the tapes. There's no microphone down there.

**Hon. Mr. Auld:** Ernie, come up here and fire away.

**Mr. Good:** If the province pays a constant rate of interest to the federal government—and that is just for part of the cost of the works—there is still a cost involvement that the province puts in as a subsidy. Is that correct?

**Hon. Mr. Auld:** Yes, there may be.

**Mr. Good:** There may be or there may not be? Then there is the usage and the frontage and the connection charge paid by the individual people in the agreement you make with the municipalities.

All right. Now, when the municipality makes its final agreement with the province, it is related to liquidating the debt over, say, a 40-year period or the life of the works. That's figured out to pay off the debt that the municipality has over and above the province's, apart from the federal government? You've got really three sources of money involved. What I am trying to get at—

**Hon. Mr. Auld:** The term of the thing is the same. It is, in the case of a subsidized project, 40 years.

**Mr. Good:** Yes.

**Hon. Mr. Auld:** It's a little complicated by the fact that certainly for the first 10 years, the rate charged to the municipality is less than—

**Mr. Caverly:** We run at a deficit.

**Hon. Mr. Auld:** It is, in effect, subsidized.

**Mr. Caverly:** We run at a deficit for the first few years to encourage hookups to the system. We have a breakeven point which varies; it's usually somewhere between the 10th and the 20th year. From then on to the end of the project we run in the black.

**Mr. Heath:** Get Paul in here.

**Mr. Caverly:** Yes, Paul.

**Mr. P. G. Cockburn (Director, Project Development Board):** I think to answer your

question, Mr. Good, the net amount from the federal government and the net amount from the province are recovered over 40 years. Now, in establishing the rate, the first thing we do is take off the assumed amount that we are going to receive from frontage connections, mill rate and whatever else is involved.

**Mr. Good:** Up to the \$130 and \$110?

**Mr. Cockburn:** No, this is part of it; but we have to recover all the money in one form or another. We take into account the total payment for frontage connections and mill rate and whatever else might be involved in that. Then we establish the rate, which really picks up the balance of the cost so that the total amount being recovered in the 40-year period will be the total net amount from the province and the total net amount from the federal government.

**Mr. Good:** So the municipality is getting credit for the 25 per cent forgivable factor from the federal government?

**Mr. Cockburn:** Yes, in two ways. Our subsidy in the province is based on the gross capital cost of the project, so that may mean they get 75 per cent of that. In turn, the gross cost of the eligible portion from CMHC doesn't take into account the subsidy, so they could get 25 per cent forgivable on that. In fact, almost every municipality gets more than 75 per cent total subsidy.

**Mr. Good:** When the agreement is made with the municipality for repayment, how is that interest rate ascertained? Is this on the borrowing ability of the municipality or the financial soundness of the municipality or is this in some way tied to the rate you're paying CMHC?

**Mr. Cockburn:** We have two interest rates. We have the rate that the province has to reimburse CMHC for, which is somewhat less than our own interest rate in the province. Those are established at the outset of the project when the final costs are known and then those interest rates prevail. There are two interest rates, but they don't vary in subsequent years.

**Mr. Good:** Yes, but how is the rate established in the municipalities?

**Hon. Mr. Auld:** It is established when the project starts. It's again like the CMHC rate, and what Paul is saying is that CMHC is the federal rate, which is sometimes one-

eighth, maybe one-quarter, or 1 per cent less than the provincial rate. The rate we charge is the one the province is borrowing for at that point in time.

**Mr. Good:** You mean on the money market.

**Hon. Mr. Auld:** Yes.

**Mr. Good:** What about in 1970 when the province didn't borrow any money? How did you establish the rate then?

**Hon. Mr. Auld:** You would have to ask the Treasurer (Mr. White). He establishes the rate we charge.

**Mr. Cockburn:** Based on the Hydro borrowing rate in that year.

**Mr. Good:** In OMERS they based it on the Hydro rate. So invariably the municipality is paying a higher rate than you are paying to CMHC.

**Hon. Mr. Auld:** They are paying a lower rate than if they borrowed it themselves.

**Mr. Good:** They are paying a higher rate than you are paying to CMHC for a part of the money.

**An hon. member:** That is not correct.

**Hon. Mr. Auld:** No, they are paying the same rate that we pay CMHC for that portion of the cost that is CMHC funded. And they're paying us in the total payment. They're paying the provincial share at the same rate that the province is borrowing for at that point in time.

**Mr. Caverly:** Which is usually less than what the municipality itself can borrow for.

**Mr. Cockburn:** You see, any municipality that borrows from CMHC has the opportunity to borrow from CMHC at the same rate we do. And such a municipality can pick up the balance of the cost, if a project happens to be its own project, at whatever money it can get on the market; which is always, with the possible exception of Metropolitan Toronto, higher than our rate. I mean they are saving.

**Mr. Good:** That's what I'm saying. But what I'm trying to get at are the smaller municipalities, where you are involved as the owners.

**Mr. Cockburn:** But they are still getting a better interest rate on the balance of the non-CMHC portion from us than they could get themselves.

**Mr. Good:** Well, I'm sure.

**Hon. Mr. Auld:** That's why there are more provincial projects in smaller municipalities than there are in larger ones.

**Mr. Good:** I thank you, that clarifies it.

Now we have one other question in that regard. You finance, then, over 40 years, on the understanding that that's the life of a project. Now, say in these OWRC-financed projects that have been going on—for how many years now?

**Mr. Cockburn:** Twelve or 13.

**Mr. Good:** Twelve or 13 years, all right! Thirty years from now, or 28 years from now, they will be paid off. The Ministry of the Environment is still going to own the works, isn't it?

**Mr. Cockburn:** No, it is not. The old-type projects that we had financed between the period of 1958-1959 to 1965 were under a different type of agreement and a different part of our Act, actually. So when they are paid off, they will be turned back to the municipality at the request of either party, either the municipality or the minister. But they'll be turned back at that time. The debt paid off is really a mortgage-type arrangement in the original-type projects, and it is to be turned back to them.

**Mr. Good:** Well, OWRC didn't have that type of agreement, did it?

**Mr. Cockburn:** Yes, the original projects were all of that nature.

**Mr. Caverly:** They were for 30 years, not 40 years.

**Mr. Good:** And what are they now? What happens at the end?

**Mr. Cockburn:** We still have that type of project in some municipalities, but because of the advantages of the so-called provincially financed project, most of them, when enlargements come up, are switching over. And then they are in a different position, one in which they are perpetually owned by the province. The difference is that the one agreement signed at the outset of the project carries it through a perpetual programme. So that 20 years from now, if we need an enlargement to the plant, it will be covered by the original agreement. On the old type of project, every time we put 100 ft. of sewer into a municipality we had to go through another agreement.

**Hon. Mr. Auld:** That wouldn't apply to the area agreements, because who knows what the area will be in 20 years.

**Mr. Cockburn:** Well, the area agreements are all provincially-financed, perpetual agreements.

**Hon. Mr. Auld:** Because in effect it is an area service, and we sell it to two or three or five or six municipalities.

**Mr. Good:** Yes, I am aware of that.

While we are dealing with these systems, I will finish the other questions I have on these matters.

First of all, there is the matter of those employees who were working in what had previously been municipal treatment plants that were taken over by OWRC, and now the ministry. They are now employees of the ministry and their pension plans are being switched from OMERS to the Public Service Superannuation Fund.

I think I spoke to the minister and he indicated to me that there wasn't that much difference between the two pension funds and that they wouldn't be losing or gaining. This had never been explained to the people in our area; they were just told they were switching from OMERS to the other fund, and they couldn't assess whether it was a better fund or worse or whether they were going to lose some benefits or gain some.

**Mr. Caverly:** They are gaining the provincial superannuation fund, which is better than OMERS.

**Mr. Good:** It is better? Well, that sounds fine at present, but now that we have regional government, there is talk that the regions are going to take everything back from the ministry. In that case, they would become municipal employees in a year or so and they would be switching back the other way. They are a little concerned that their pension fund is going to be kicked back and forth two or three times in the matter of a couple of years.

**Mr. Caverly:** We are right in the middle of negotiations on that with Waterloo; in fact, we had a meeting yesterday—we have monthly meetings with regional Waterloo. At this time, while it hasn't been resolved, it appears quite clear to us that we will be operating all of the sewage works in regional Waterloo, because at the present time we are operating all the regional sewage works, and that regional Waterloo will be operating the waterworks. We only have one waterworks system at the



present time, in the old village of St. Jacobs, which I guess is now Woolwich—

**Mr. Good:** It is a new system.

**Mr. Caverly:** Yes, it is a new system. I think this is the way we will cut the pie, so to speak; they will operate all the waterworks in regional Waterloo and we will operate the sewage works.

**Mr. Good:** So you don't see negotiations to the point where the region would want to take over the sewage treatment plants?

**Mr. Caverly:** Well, not at the present time. We haven't finalized this—and I may be jumping the gun in even speaking about it—but this is the way we have come away from the meetings; this is the feeling we have.

**Hon. Mr. Auld:** There isn't a great difference in terms of benefits. There is a slight difference in some areas in terms of the employees' contributions and the contributions of the employers, the municipalities. That basically is the only difference. I think the total benefits are pretty well comparable.

**Mr. Good:** All right. Now, Mr. Cockburn, if you would start looking for the report on the plan for the village of Wellesley, which is now the area government of Wellesley, I would like to say a few words on it.

The people in the area have been quite concerned about the delay in this project. A letter from the mayor stated that OWRC had indicated two years ago that the system would be in operation by the end of 1972.

Last year we received a written letter from OWRC, which is enclosed, which scheduled the start for May 4, 1973, to be in operation by December of this year for sure. On this basis the village planned, notified subdividers, notified homeowners that their septic tank problems would be over, and arranged with Ontario Housing Corp. for a 16-unit senior citizens' home to start construction in 1973. This, in turn, prepared senior citizen families to sell their homes. We have been notified the project is not in the budget of the Ministry of the Environment for 1973 and may not be started until 1974.

This has been a matter of great concern and a great deal of controversy in the area; and I think Mr. Young, the regional chairman, has met with you on the matter. But here is your schedule, signed by Mr. Wilson, supervisor of provincial projects, indicating construction would start May 4, 1973; that date is now

past and there is no sign of any shovel digging into the ground yet. Could we have a report on that and an indication of what might be expected there?

**Hon. Mr. Auld:** I think I can tell you, regarding the meeting we had with Mr. Young—and I was confusing Wellesley with Waterford the other day in the House—that there have been some delays in connection with the final engineering—

**Mr. Good:** Not so. Before you go any further, I spoke to Mr.—

**Mr. Caverly:** Actually, this was dealt with at our meeting yesterday, Mr. Good, and we indicated to Reeve Gramlow that we would be calling tenders in September. Is that not right, Mr. John Macdonald? Is it September?

**Mr. J. C. F. Macdonald** (Director, Project Construction Branch): Well, we hope we can start construction then.

**Mr. Caverly:** Construction would start in September? When would we be calling tenders?

**Mr. J. C. F. Macdonald:** Late July.

**Mr. Caverly:** Late July. Therefore, we think this project is under way. We don't see any difficulties in that regard. There is a slight delay of a few months.

**Mr. Good:** Well, as I say, I was given to understand by Mr. Mierzynski that the design was finished, the pre-selection of equipment and the engineering was completed, and the project could go ahead. It was just a matter of the priorities being set up by the task force, I guess.

**Mr. Caverly:** There were two priority projects in regional Waterloo which we dealt with yesterday. One was the one I have just referred to, and we gave assurances to them about those dates—I was just a little unclear about them—that we probably will be calling tenders in July with construction in September, say, or early fall.

The other project was the water line to New Hamburg, where we have got a problem. We indicated to the people yesterday that we will be giving that top priority. I don't know where the engineering stands, but we won't have any holdup on that project.

**Mr. Good:** I will get to that one in a few minutes.

What about areas where you have indicated the maximum subsidy will be 75 per cent for sewer and water projects, and charges are not to exceed \$240 a year per household—\$130 and \$110—in new areas? Even this is a considerable hardship to many people. The town of Elmira, for example, is getting sewer and water at present for about \$60 a year. In the plan to regionalize water and sewer rates in Waterloo region, they are going to take quite a beating, because you can't rationalize a rate of \$240. The agreement with Baden is even higher than that.

**Mr. Caverly:** Well, this was discussed—

**Hon. Mr. Auld:** That was really something like Sudbury.

**Mr. Caverly:** Well, this was discussed yesterday at the meeting. Regional Waterloo is endeavouring to get a uniform wholesale rate for the whole region. We are not party to this; in their wisdom they are going through with this. They did indicate a reaction from Elmira, but frankly we have stayed out of this.

There are bound to be some inequities when you set a uniform rate. On the other hand, there are a lot of advantages, and I wouldn't be surprised in a few years if they don't endeavour to put a uniform sewer rate across the region, which is going to be more difficult to achieve than the water rate.

**Hon. Mr. Auld:** It is a small step toward what Don Deacon said we should do, have the same rate across the province.

**Mr. Good:** It works very beautifully, and I advocated it in the area of Baden, where there were 150 objectors to the original agreement because it was going to cost about \$264 for people on 60-ft lots and about \$307 a year for people on 100-ft lots. Unfortunately, a lot of people were on a 100 ft lot, because they had to build on 100 ft to get permission for a septic tank system, and this did create a problem. At that time, rough arithmetic indicated to me that adding about one per cent, or about \$1 a year on sewer and water rates in the city of Kitchener could cut the Baden rate in half.

**Mr. Caverly:** You see, some municipalities, to encourage industry, have set very low rates—unreasonable rates—for water. And, then, when one of them sets a uniform rate for a region, it gets caught.

Elmira is one of them. It has a very low bulk rate, mainly for Uniroyal. The city of Galt, the old city of Galt is in the same boat.

However, the old city of Waterloo didn't have cheap bulk rates, and while it has some large water users, such as Seagram's Distillery and Hiram's, it is in fine shape.

**Hon. Mr. Auld:** I thought the province was the one that put the water in the whisky. I didn't realize—

**Mr. Good:** They just put the price on the water. Well, that's fine.

**Hon. Mr. Auld:** That really gets down to what is a very interesting point to me—that a lot of people are in favour of the same rate across the province if they think they are going to pay a higher rate otherwise. But the people who are now paying a lower rate are not very much in favour of that.

**Mr. Good:** Something has to be worked out, or staged in, or something, but the point I wanted to get at is this—what happens in a municipality where a 75 per cent provincial subsidy will not bring the rate down to \$130 and \$110 respectively?

**Hon. Mr. Auld:** If it is a regional municipality, we figure the cost of the extension on the basis of the cost per household in the area to be served. In practical application in a region we're running, we charge a rate which the region can apportion as it sees fit. The subsidy applies to the costs of the area being served, but if the region, in its wisdom and judgement, decides to equalize the rate and charge the same rate all over, it is quite permitted to do so. We charge so much a gallon and the region assesses it among its second-tier municipalities as it sees fit. Then the second-tier municipality, in some cases, can apportion it as it wants to.

**Mr. Good:** Do you assure me that even under a regional government, and say the region chooses to equalize the wholesale water rate to the municipalities, that a small, new municipality within an area government, putting in services will then still benefit from the 75 per cent subsidy on the maximum rate?

**Hon. Mr. Auld:** Well, yes and no. It could. But, then, I suppose, if the region decided to set a higher rate, then it wouldn't. The region would benefit from that subsidy on the additional cost of the new services.

**Mr. Caverly:** I doubt very much, Mr. Good, that any of these municipalities are involved in subsidy projects where there would be an increase in the rate. The only water rate charge we have to date is in St. Jacobs and this municipality's rate will go down.

**Mr. Good:** Well, Baden will be—

**Mr. Caverly:** And Baden, I think, will go down; because there they are talking 15 cents a thousand gallons.

**Mr. Good:** As the regional rate?

**Mr. Caverly:** I think that's it. I could stand corrected on that. I think that was the rate they quoted yesterday. I am just recalling from memory. I didn't write it down.

**Mr. Good:** Treatment is a regional responsibility, right?

**Mr. Caverly:** Yes.

**Mr. Good:** And water is ready to use when it is wholesaled to you?

**Mr. Caverly:** The supply of the water is a regional responsibility. The local distribution is updated.

**Mr. Good:** Yes, I know, but I am talking about treatment.

**Mr. Caverly:** Yes.

**Mr. Good:** Now, getting to the water matter. As you know, the study made by the government a year ago indicated that the Ayr reservoir was to be a fairly high priority job. This was because it could, perhaps, be the source of a 15-year ground water supply for Waterloo county—the largest population area within the province still relying on a ground water source.

Now, the Kitchener-Waterloo ground water recharge study was undertaken a year ago, June 28, 1972. Do you have a report on it? In this regard, might I say the latest rumours around are that the Ayr reservoir deal is all off, and you are pushing now towards getting on the pipeline? Is there any truth in that?

**Hon. Mr. Auld:** Well, Mr. Caverly is up to date on this as a result of yesterday's meeting.

**Mr. Caverly:** Well we have heard rumours about the Ayr reservoir. We held a meeting two or three days ago at Hespeler of area municipal officials to discuss this ground water recharge study. At the meeting, the reeve of Blenheim township expressed opposition to the Ayr reservoir, mainly because of 3,500 acres of farm land that could be taken up by the reservoir. We are proceeding with the ground water recharge study even though these rumours are floating around. We have had nothing official from our ministry.

**Mr. Good:** Well, the rumours are supposed to be coming from Queen's Park.

**Mr. Caverly:** Well, they are not coming from the Ministry of the Environment, anyway; and this, of course, is the conservation authority's branch of the Ministry of Natural Resources. The recharge study, of course, has merit in that it will say whether, in fact, you can obtain water out of that aquifer by recharge from the Ayr reservoir. I think nobody is quarreling with the fact that the recharge source of supply is limited to, I think, the year 2,000.

Eventually, if this area is to grow, water has to be brought in from outside by pipeline. This was stated in the original Grand River report. I know there are some people in regional Waterloo who feel that we should proceed immediately with the pipeline. This feeling was expressed yesterday by the planning director of regional Waterloo. However, until we get different instructions, we are continuing with our studies.

**Mr. Good:** How long will it be before the study is completed?

**Mr. Caverly:** Mr. Symons, how many years will that study take?

**Mr. K. E. Symons** (Director, Water Quantity Branch): Four years.

**Mr. Caverly:** Four years.

**Mr. Good:** Four years? Well, that's the Ayr reservoir study. But isn't there—

**Mr. Caverly:** No, that is the recharge study. It has nothing to do with the Ayr reservoir per se, but the whole scheme depends upon the Ayr reservoir being built, because we are using it as the source of the recharge water.

**Mr. Good:** And this is a four year study?

**Mr. Caverly:** That is what they tell me.

**Mr. Good:** Now, what about the development on the shores of Lake Erie, in the Nanticoke area? I understand that when Hydro's intake was put in there, it was oversized to accommodate a pipeline. Is that right?

**Mr. Caverly:** There is an oversize of the intake at Nanticoke and this was for the development in the Nanticoke area involving Stelco and Texaco. The development which is going to occur around Nanticoke includes a pipeline, if and when it is required. Certainly,



at some point in time, the city of Bradford is going to have to go to the lake for water.

**Mr. Good:** You heard that, Mr. Caverly?

**Mr. Caverly:** It is illogical to think it coming from any other place. I must be honest and say that the economics of a pipeline in the Kitchener-Waterloo area coming from any place other than Lake Erie are quite out the window. I think we are just kidding ourselves if we think we can bring water into that area from Lake Huron or Georgian Bay and afford it.

**Mr. Good:** Well, I would—

**Hon. Mr. Auld:** Did you say the Hydro intake?

**Mr. Caverly:** Yes, I did.

**Mr. Good:** The intake in Hydro; for Nanticoke Hydro station—

**Hon. Mr. Auld:** Oh, that's a common—

**Mr. Good:** It was oversized 22 ft or thereabouts?

**Mr. Caverly:** We put an extra foot on it. And I think it gave us something like 400 million—

**Mr. K. H. Sharpe** (Executive Director, Water Treatment and Pollution Control Division): Four hundred and fifty.

**Mr. Caverly:** Four hundred and fifty million gallons a day capacity by adding one foot to the diameter.

**Mr. Good:** Well, I would respectfully submit, Mr. Minister, that if you are going to break down the emotional vacuum which now exists for water from Lake Erie being used for drinking purposes in the Kitchener-Waterloo area, you should start talking about it, because a couple of years ago when it was first mentioned, everybody just threw up their hands—

**Mr. Caverly:** Of course, you are thinking Lake Erie water—

**Mr. Good:** I know. You don't have to sell me on it. However, the average reaction of people is this: "I would certainly die of thirst rather than drink water from Lake Erie." That sort of thing. But that's an over-exaggeration of the case.

**Mr. Caverly:** I was at the one meeting and I agree with you. There was a tremendous

public reaction against the use of Lake Erie water.

**Mr. Good:** I think that in this two-year period people are beginning to realize that after treatment water is water, and it is safe to say that regardless of where the water comes from it would have to be treated. Is that correct?

**Mr. Caverly:** That's right.

**Mr. Good:** If it did come from Georgian Bay—

**Mr. Caverly:** Oh yes, you would have virtually the same treatment, with some modifications, the same from any place.

**Mr. Good:** Is there any truth in the rumour that the recent large assembly of land down in Norfolk and Haldimand area will speed up the pipeline talk and the requirements and the need for pipeline? This seems to be the latest scuttlebutt going around in the area now. Is this all tied together?

**Hon. Mr. Auld:** There is going to be a community someplace. We got the planned intake capacity; it is a question of where you run the pipes. I can't tell you where the community is going to be. Frankly, I don't know.

**Mr. Haggerty:** Is it large enough to handle the Ontario Hydro and the steel complex, plus the development of this proposed new city of 150,000?

**Mr. Caverly:** The original Nanticoke proposal was of course a residential development around the industrial complex, which was quite apart from this most recent land assembly that you are referring to. But in our initial engineering report we allowed a certain figure, I forget what it was.

**Mr. Cockburn:** It certainly covers that size and magnitude right to Kitchener-Waterloo. We did study it in some length around 1969, knowing that this community was sort planned as part of the Norfolk-Haldimand study, and our engineering is all related to that. So there is no question that the capacity is there.

**Mr. Haggerty:** Does it take in the town of Dunnville too? I understand that they have problems with their water supply system.

**Mr. Caverly:** No, I think Dunnville will probably just put filters — and we are discussing this how—filters on the—

**Mr. Haggerty:** The intakes are located in the clay banks, aren't they?

**Mr. Caverly:** Of course we have a regional supply there for Dunnville now, and they have their own old filter plant at Dunnville; which is frankly worn out. We're having discussions with them now about putting a new filter plant, either at the lake where the low lift stations are or in Dunnville itself; and this hasn't been resolved yet with them.

**Hon. Mr. Auld:** I'd say the Nanticoke thing is somewhat similar to the Pickering situation where there is going to be another community. The original thought was there were going to be two communities, and now because of the feds and their airport, if that goes through, there will be one community. But the planning that has been done for the region of York and Pickering system relates to a capacity, and it is really a question of where you run the pipe. Whether to run two pipes to two communities or one to a single one, is a difference in the cost, but not a really significant one.

**Mr. Good:** Another parochial matter, and then I just have a few others after that. Has the water supply for the new Baden system—the test wells are in now—had adverse effects on wells 50 and 51, that were brought in just after our estimates last year for the city of Kitchener? I might say, Mr. Minister, that things must be somewhat better in Wilmer township. Mr. Watt will be glad to hear, because I haven't had any complaints in the last several months.

I guess it must be the high water in the Great Lakes or the heavy rainfall, but the farmers' wells have not been going dry with near the regularity that they were a year ago, which I am glad to hear. But there is concern that when the Baden wells come in and the pipeline is put into New Hamburg they are going to get this whole matter back to its original state, as far as the Wilmer township farm water table is concerned.

**Mr. A. K. Watt** (Executive Director, Water Resources Division): Mr. Minister, certainly we are watching the situation. As you know, we have people keeping track of ground water levels and if any of these high-capacity wells affect any of the local wells, regardless of whether it's Baden or Kitchener, there will be steps taken to restore the waters affected. If they don't develop the wells, but can take a source of water from some other pipeline system, this is all to the good. But at the present time the staff are checking all of those wells that are likely to be affected,

or that the owners feels are being affected, and making sure that if there is an interference something is done about it.

**Mr. Good:** That sounds very encouraging, except that I've had enough experience to know that all a farmer knows is his well has gone dry, and when he is confronted with a lot of tables and charts and readings showing the static water level and your people say, "No you are in a different aquifer" or "The interruption wasn't caused by that three million gallons a day pumping that the city is doing," the poor farmer doesn't have a leg to stand on with your department. All he knows is that he has no water and if your people say, "Well it must be some other reason. There is dirt in the bottom of your intake," it is not much comfort to him if he's not getting any water. But as I say, lately I haven't had any complaints, so we'll wait until the next complaint before we pursue that any further.

There is the matter of the private sewage systems. The authority permit is given by the local department of health, and I've had a couple of very frustrating experiences lately. I think the problem is caused by the dual authority between your ministry and the Ministry of Health.

There is one particular instance relating to a permit for a nine-acre site on which a restaurant is to be built. The person had been working on it for the best part of a year and seemed to get what I thought was a legitimate complaint classified, as I classify it, as a runaround. At the time some of the people in your department, Mr. Minister, agreed with me that that isn't working out too well, as far as the dual authority is concerned. In the final analysis the Ministry of Health has to issue the permit. They rely on your engineering staff for a certain amount of advice. Your engineering staff will say, "As far as we are concerned, a siphon type of arrangement within the septic system is satisfactory," and the health department will say, "Oh, no, they maybe said that was okay but we want a pump in there," so we start all over again back from square one.

Engineers in your department say, "Well we would like the tank up closer to the source of supply," and the plans are approved, then the health department say, "Oh no, we'll put the tank down closer to the tile bed," and then should the tank go here at one end of the tile bed, or should it go in the middle? This back and forth hassle—not a hassle, but just lack of understanding—



goes on and nobody seems to have the final authority and say on the matter. Personally I just don't think it's working out very well.

**Hon. Mr. Auld:** You are right. Actually there is not dual authority. The local health unit has the authority. Occasionally they call us in, and in some cases they call us in all the time because of staff shortages or something on their part. But basically they have the authority. The standards or the rules vary from health unit area to health unit area.

We have in the budget some funds for additional staff, and I mentioned the 51 people that we have been authorized to put on complement, most of whom currently are working in the Muskoka-Parry Sound area, where the MOH has asked for our assistance and has appointed our staff under his Act to help out in some real problems there. We will have province-wide standards. We will make agreements with municipalities to operate these standards and to enforce them if they are prepared to do it and they have the qualified staff, and in those places where they can't, or don't, or won't, then we will operate it. So we will have the same standards across the province, the same inspection and the same qualified people.

But I would agree with you at the moment that it is really a very confused situation. You can go to adjoining counties and find that what one health unit or one MOH says you have to do, the fellow next door says is the only thing you can't do. I'm not sure that it is quite that extreme, but there is no common set of standards.

**Mr. Good:** Yes, but you see it is the poor fellow who wants to comply who suffers. In this case, on Feb. 7—

**Hon. Mr. Auld:** If he asks our advice we may say one thing and the MOH says something else.

**Mr. Good:** Yes, and then Health says that won't do. On Feb. 7 he met with the Health Ministry. Your Environment people from Hamilton were up and his own engineering firm was represented there along with his lawyer. He said, "Now, we're prepared to do anything you want us to do." Well, that's fine, all right. Now he's back again to square one. He's already had a report submitted by his engineering firm. So, then he had to spend another \$400 to go out and have a new survey done, new grades put in, additional fill—this is fine; glad to do it. So he went to all that expense.

Well, then, one of the Health Ministry engineers or your engineers in Hamilton decided, "Well, gee, maybe it really would be better if the septic tank were over here, and I guess we should have a pump in here rather than a siphon system." Well, he said the engineer in Hamilton had told him as far as they were concerned they recommended a siphoning system for that size of tank. And the Health Ministry said, "No, you have a pump in." The poor guy was—

**Hon. Mr. Auld:** Well, we can recommend, but currently it's the MOH or his staff who do the specifying.

**Mr. Good:** Well, I'm glad to hear that you are aware of the problem, that steps are going to be taken to have uniform standards, not so much across the province, but within one jurisdiction, and that the people are working on the same standard through your department and the Ministry of Health.

Municipal bylaws which restrict the amount, say, from plating plants to be dumped into municipal sewage systems seem to vary a great deal from one municipality to another. So much so—

**Hon. Mr. Auld:** In your area they do, significantly, it seems.

**Mr. Good:** So much so, that plating plants in Kitchener—Electrohome, Kuntz and Globe Stamping—will send certain jobs down to little plants they've set up in Hespeler or somewhere out of the area, to circumvent the bylaws which are set up in their particular area.

In Toronto the requirements are much more liberal than in our area, which of course they consider to be unfair competition, from their point of view, because they have to be very meticulous as to the number of parts per million that they can put in. They never know when the inspector is going to come around, take the lid off, put his dip stick into the sanitary sewer and get a reading of the amount of chrome or whatever that's going in.

Now, I understand the province only makes recommendations as to the amount that should be allowed, or are you working toward standardization, or what?

**Hon. Mr. Auld:** I'll ask Mr. Caverly to answer that. I know something about it, but he knows the technical part.

**Mr. Caverly:** Well, I think you have to go back, Mr. Good, to the purpose of a bylaw to



control industrial waste. And the reason for this is to prevent the discharge of materials which will upset the treatment process, or which will have an adverse effect on the sewer system.

In a place such as Metropolitan Toronto, where you have a vast amount of domestic sewage, in comparison to your industrial waste, the limits admittedly are less stringent.

This was brought home very much in our negotiations, 10 or so years ago, with Carling Breweries. They wanted to know why we put restrictions on them in Waterloo that we didn't put on them in Etobicoke. It was simply a matter of dilution in the sewer system and eventually they understood this.

In our meeting yesterday with regional Waterloo, they are working toward a uniform industrial waste bylaw for the whole region. There are some legal complications of how we fit this into existing agreements which we have with the municipalities, which has an appended industrial waste bylaw.

But I think your problem of Kitchener being different from Hespeler, when we can get the legal side of it worked out in a few months, they may pass a uniform bylaw and you will have uniformity throughout the region. I think this is a distinct advantage.

**Mr. Good:** I see. So you think that within a region; but what about provincially?

**Mr. Caverly:** Well, I don't think we'll ever get to that from what I said at the beginning.

**Mr. Good:** So it will drive your major industrial polluters to the larger municipalities.

**Mr. Caverly:** Well, the actual industrial waste bylaw is under the—

**Hon. Mr. Auld:** Municipality.

**Mr. Caverly:** —municipality. I suppose Metropolitan Toronto doesn't want to do anything more stringent than it has to. And I can see its point.

**Hon. Mr. Auld:** I don't think, though, that that will do quite what you said, Mr. Good, because there are a lot of other considerations to an industry, rather than a relatively small proportion of the cost of their plant for whatever degree of treatment they have to make on the effluent before they discharge into a municipal system.

**Mr. Good:** One other matter, Madam Chairman. Going out on the train the other

week, I went past, what I found out later was the Highland Creek sewage treatment plant. Do you have some problems out there?

**Hon. Mr. Auld:** Highland Creek? There are always problems every place.

**Mr. Caverly:** What are you calling a problem, Mr. Good?

**Mr. Good:** It looked to me as though this green, foamy stuff was spilling over. I inquired later and I was told that this was a perennial problem out there. The plant is overloaded. The treatment of the Johns-Manville plant out there, is that handled through that plant?

**Mr. Caverly:** Oh, well. Maybe you were looking at the lagoons from the Johns-Manville plant, which are quite close to the Highland Creek plant.

**Mr. Good:** They're not connected?

**Mr. Caverly:** No, no. I don't know whether Mr. Caplice can elaborate on the Johns-Manville plant.

**Mr. Good:** Have you had any problems out there?

If you've had no problems, that's fine. That's all I had to say about sewers.

**Madam Chairman:** Mr. Haggerty, please.

**Mr. R. Haggerty (Welland South):** Thank you, Madam Chairman. Perhaps I want to get back to the matter concerning Nanticoke that the hon. member for Waterloo North has brought before the committee here. Under whose jurisdiction is the intake?

**Mr. Caverly:** Which is that?

**Mr. Haggerty:** Nanticoke.

**Mr. Caverly:** Well, it belongs to Ontario Hydro.

**Mr. Haggerty:** You mean to tell me then, if we're going to have further development in that area, the developers are going to gain some advantage from it, but not pay for it?

**Mr. Cockburn:** We bought capacity for our requirements—\$1 million worth of capacity was bought. This was documented in some way that we did have this capacity. It wasn't too formal an arrangement because it is intergovernment. But there is enough documentation that we have bought formally \$1 million worth of capacity, or 450 million gal per day.

**Mr. Haggerty:** The government has a share in it, then?

**Mr. Cockburn:** Yes.

**Mr. Haggerty:** And if any further development takes place in that area, you will charge for the benefits that the developers will get from this larger intake?

**Mr. Cockburn:** Yes, we developed a project down there; it was the intent that this \$1 million would be recovered in the rates eventually, yes.

**Mr. Haggerty:** Were you aware of the new proposed city in that area of 150,000?

**Mr. Caverly:** No.

**Mr. Haggerty:** No?

**Mr. Caverly:** Not at that time.

**Mr. Haggerty:** Not at that time? When were you aware of this new development that is to take place?

**Mr. Caverly:** When we saw it in the Globe and Mail.

**Mr. Haggerty:** When you saw it in the Globe and Mail. Would the minister be aware of the development in that area—was it Fidinam?

**Hon. Mr. Auld:** Pardon?

**Mr. Haggerty:** Would you be aware of the development in that area that's supposed to be under the control—or the land is optioned by—is it Fidinam here in Toronto, the developer that had something to do with that project at Bloor and Yonge Streets?

**Hon. Mr. Auld:** What I am aware of is what I read in the paper. I gather that there's been a good deal of speculation where there might be a townsite. To my knowledge there has been no decision by the government, or TEIGA, which would be the operative agency, as to where the townsite will be. I am aware that there have been a number of sites looked at, but I'm not involved in the day-to-day sort of discussions about it. I guess if I knew I wouldn't say anything about it anyway.

**Mr. Haggerty:** I guess the Treasurer has applied a freeze in that area on all land purchases or development in that area, just in the last two or three weeks.

**Hon. Mr. Auld:** In one of them, I think, yes.

**Mr. Haggerty:** In this particular area. I was wondering why at this late stage he would apply a freeze now? He should have applied this some four or five years ago.

**Hon. Mr. Auld:** I guess you would have to ask him.

**Mr. Haggerty:** You are in the cabinet. You must know that some of this proposed or planned development is going to be taking place in an area. I think when you see Hydro moving in there you are going to see development within that area. That is the time when you should have, perhaps, put a holding by-law on that municipality to freeze any development.

**Hon. Mr. Auld:** Which municipality?

**Mr. Haggerty:** It would be Haldimand county, I should say; probably around Jarvis.

**Hon. Mr. Auld:** I can't comment. As I say, if I knew obviously I wouldn't say where the community might go. It may be settled, I don't know. I really don't know.

**Mr. Haggerty:** I suppose if the speculators are in there it is pretty sure that is where the community is going to be, isn't it?

**Hon. Mr. Auld:** No. As I said a few minutes ago, though, this is somewhat comparable to Pickering. We have planned for a community of a certain size but where it goes, within quite a few miles, is rather academic. Once you have the supply it is a question of where you run the pipe.

**Mr. Haggerty:** But the intake there is sufficient to handle it so you must know it is going to be within that area?

**Hon. Mr. Auld:** I don't think there has been any secret for a long time that there would be a planned community of 150,000 people.

**Mr. Caverly:** Yes, something like that.

**Mr. Haggerty:** It's never been that. It has never been quoted as a new city of 150,000.

**Mr. Caverly:** You have Texaco and Stelco moving in, plus an industrial park which is part of Stelco. It naturally follows that there is going to be housing associated with this. The people who work at Stelco aren't all going to commute from Hamilton. We allowed for a reasonable amount of housing development around the area.

As the minister says, it doesn't matter where it is as far as we are concerned. It

just made good business sense that we buy into the Hydro capacity because we have an intake there for a fraction of the cost it would take to build our own. We had engineering studies a few years earlier of our own intake at Peacock Point and we just couldn't match the price. If you get a 450 million gal. intake for \$1 million, that is the best bargain you ever got in the world.

**Mr. Haggerty:** It might be at the time.

**Hon. Mr. Auld:** It's a quarter of the cost.

**Mr. Caverly:** At a quarter of the cost.

**Mr. Haggerty:** You raise another important fact there. If I recall, I believe it was Texaco that wanted to locate somewhere around Oakville, or east of Oakville, on Lake Ontario. I guess there were a number of objections by residents saying they didn't want this type of development along this particular corridor.

I can see that you are going to create this same problem, which probably in the end result would be more serious, on Lake Erie. With those two steel complexes, one at Nanticoke or Port Dover, that area, and the other at Port Burwell, I believe it is, and then with Texaco coming into that area, I wonder what effect it will have on the complete ecology of that area and particularly those municipalities which have to draw their water supply from farther east on Lake Erie.

**Hon. Mr. Auld:** Our legislative concern and authority is related to how much they draw and in what form they return it.

**Mr. Haggerty:** In what condition.

**Hon. Mr. Auld:** In what condition. Our requirements are pretty strict and technically, from our point of view, it wouldn't matter whether they were building in Burlington or building on Lake Superior. We would still have requirements in either area for what they discharge into the water in terms of its quality and temperature, depending on the receiving capacity.

**Mr. Haggerty:** This is right, but you are going to create the same problem that is on the American side. Lake Erie has become too industrialized on the other side and, of course, you know the problem with pollution on that side. We are going to have this same thing; we will definitely.

**Hon. Mr. Auld:** Before we will permit a discharge, and this is a lot simpler with new plant than it is with an old plant, we say, "Before you put water back into the lake

it has got to meet these standards. If you don't do that, you don't discharge it."

**Mr. Haggerty:** It is nice to have it on paper. We will have to wait and see when it is completed in that area. But there is a different condition which exists on Lake Erie. Lake Erie is one of the shallowest lakes in the Great Lakes basin and this is going to create problems.

**Hon. Mr. Auld:** That has a bearing on the water quality requirements.

**Mr. Haggerty:** This is right. What I am afraid of is that you are going to create another serious problem of water quality in Lake Erie.

**Mr. E. W. Martel (Sudbury East):** They should have located it in the north.

**Mr. Haggerty:** That's right, I quite agree. The member from Sudbury says that the Hydro generating station should have been placed perhaps in the northwestern section of Ontario, near the iron mines in that area. I think we should have listened to him.

**Hon. Mr. Auld:** You are now talking about the temperature?

**Mr. Haggerty:** I think there will be a change in the water quality in Lake Erie and I don't think it is going to improve.

**Hon. Mr. Auld:** As far as Hydro is concerned, the standards we require for water temperature for a thermal station in that location on Lake Erie are quite different from, say, Pickering because it is shallower. I don't recall all the technical parts but there aren't the same currents. There isn't the same capacity of the lake to deal with heat. We are in pretty deep discussions with Hydro about what they may have to do about cooling.

**Mr. Haggerty:** This is on Nanticoke?

**Hon. Mr. Auld:** Yes.

**Mr. Haggerty:** This, perhaps, is going to create a further problem for the Dunville water intake; will it not?

**Mr. Caverly:** We have done some extensive base sampling and we know exactly now what the aquatic conditions were in that part of Long Point Bay before anything started up. We'll have something to compare and if we see a deterioration say from Hydro—

**Mr. Haggerty:** You are just going to tell them to phase it out right there! You are going to tell them to stop, aren't you?



**Mr. Caverly:** No, the answer there is cooling towers. They'll have to put in cooling towers which isn't an insurmountable thing to do. This is quite common in Europe. They are now getting them in the States.

We'll deal with Stelco and Texaco in the same way. In other words, we know what the conditions are today and we will ensure that they don't deteriorate. We will ask them, initially, for degrees of treatment which we think will not impair the environment. However, if we find that we were wrong, there is nothing to prevent us from going back to these people and asking for additional treatment.

**Mr. Haggerty:** You have made a study so far—let's take Dunnville, for example. I have never heard the people in that area complain about the quality of water until the last two or three months. This is just what I've noted in the newspapers. Has this any bearing on the location of the Hydro generating station or plant at Nanticoke? Is there a certain water-current pattern there that is going to bring this warm water downstream? I imagine warm water hitting the clay bottom there. It would certainly add to the taste or the quality of water in that area.

**Mr. Caverly:** We have got our "Mr. Quality" coming up.

**Hon. Mr. Auld:** John Barr?

**Mr. Caverly:** No.

**Hon. Mr. Auld:** I don't know, though, why people would complain because Hydro does not operate there at the moment.

**Mr. Haggerty:** They are operating there right at the present time because I can see steam or mist coming off their lagoon or their cooling tanks or cooling ponds which they have in that area.

**Hon. Mr. Auld:** Do you want to answer that, Mr. Caverly?

**Mr. Haggerty:** I'm sure they are operating.

**Mr. Caverly:** They are not at full capacity, but they are operating.

**Mr. J. H. Neil (Director, Water Quality Branch):** I'm sorry, I missed your question.

**Hon. Mr. Auld:** Nanticoke, Hydro.

**Mr. Haggerty:** The question I think raised by the minister was that they were not operating there at the present time.

**Mr. Neil:** At Nanticoke? No.

**Mr. Haggerty:** Are they not in production at certain phases of it? They are not at full capacity as yet.

**Mr. Caverly:** There have been complaints about the water quality at the Dunnville intake and Mr. Haggerty was wondering if this is associated with the startup at the Nanticoke generating station. I wondered if, in your survey work out there, you have been aware of any deterioration in the last few months?

**Mr. Neil:** No, we have actually been working on this for a period of some three years. This is a very broad survey that takes in all fish aspects, the algae that live there, the existing water quality, the currents that are going back and forth. Hydro has been very much involved in this as well and the area of study extends intensively for a period of some five miles each side of the plant.

**Mr. Haggerty:** Hydro is involved in this?

**Mr. Neil:** Yes. Their environmental engineering people are involved in it.

**Mr. Haggerty:** You don't know for sure whether there is a connecting link between the water being put back into Lake Erie at Nanticoke and then coming down to follow the currents in that area, if it follows the currents, say, at the intake at Dunnville?

**Mr. Neil:** I haven't heard of any water quality problems in that area.

**Hon. Mr. Auld:** Is Toronto's Hydro generating in that area?

**Mr. Haggerty:** Sure they are.

**Mr. Neil:** I don't think so.

**Mr. Haggerty:** They only dipped around there.

**Mr. Neil:** Yes, we circled that around there; that's right.

**Madam Chairman:** Do you have any further questions, Mr. Haggerty?

**Mr. Haggerty:** Yes. I'd like to ask the minister now about the matter concerning the town of Fort Erie in the westend sewage disposal scheme there. I believe I've written you a letter a matter of about two weeks ago in reply to your letter on a question I asked in the House.

**Hon. Mr. Auld:** Which one was this?

**Mr. Haggerty:** The West Bertie sewage scheme proposal. Now it's the town of Fort Erie. This was proposed as a sanitary sewage system by Proctor and Redfern—in 1966, I believe.

**Mr. Cockburn:** Mr. Sharpe and I met this week with the mayor of Fort Erie on this particular project and the East Bertie one as well, which was probably of more concern to them. Our proposal is due to go out in four to six weeks. Everything is ready. One of the problems we had is that the regional municipality is responsible for operating the system. Consequently, before we can establish our rates, we needed operating costs from them.

It's somewhat of a new game to them; so it did take a period of time. That has been the only delay in getting this proposal; quite an understandable delay, I might add. I am not criticizing them for it. The proposal should be out by the end of June. This was the date they gave them. It's virtually ready to be run through the computer.

**Mr. Haggerty:** Once this proposal comes out, when will they start the commencement of the project then?

**Mr. Cockburn:** We would go through the normal phase there. It would be advertised; there would be municipal board hearings and final design. We wouldn't be talking of any construction being initiated until late 1974 at the earliest.

**Mr. Haggerty:** You haven't the final designs drawn yet?

**Mr. Cockburn:** No, we are only in a design report condition there.

**Mr. Haggerty:** How long has it taken to design such a scheme?

**Mr. Cockburn:** Design for a scheme such as that, with approvals, would take six to eight months.

**Mr. Haggerty:** Six to eight months?

**Mr. Cockburn:** Yes.

**Mr. Haggerty:** And this has been on the drawing board since 1966?

**Mr. Cockburn:** Yes, that's true. It has been revised several times because of the change in municipal status and there have been quite a few variations to it. I quite agree it has been around for quite a while.

**Mr. Haggerty:** It must be an engineers' field day I guess—plans after plans. You think it will be perhaps 1974 or 1975 before they start.

**Mr. Cockburn:** I would say construction in late 1974 would be about the earliest that we can look at right now. They could go through a Municipal Board advertising and have no objections. It's basically a split proposal between both the region and the local municipalities which means, in effect, we've got two proposals. Both councils have to deal with it. There is a lot of time involved in dealing with the municipalities on it.

**Mr. Haggerty:** One of the problems I find with regional government in the Niagara area is that there is just too much overlapping of authority or jurisdiction on certain schemes such as water and sewage. The region in a sense says that it has been meddling in it and I'm sure this has caused some of the delay in getting this proposal started.

I'm a little bit disappointed that after almost six years, going on to seven years, this will not get off into a working programme for seven years. As for the extra cost involved, who is going to pick this up now? After all the meddling around with engineering reports and approvals from different levels of government, is this extra cost going to be borne by the taxpayer in that area now? I believe that in the original proposal for the whole township of Bertie, at one stage it was estimated the scheme was going to cost about \$4 million in engineering at that time for the package deal.

They tell me now for the western half of the township of Fort Erie, which includes Ridgeway, Thunder Bay and maybe perhaps parts of Bay Beach and Crystal Beach, it's going to cost them round about \$5.5 million just for that portion. It's going to cause quite a hardship to those taxpayers in the area. Just how are you going to finance this, so it isn't going to put them into the poor house?

**Hon. Mr. Auld:** As we mentioned earlier, before you were in, some additional subsidies may apply. My guess is, and I'd ask Mr. Cockburn to correct me if I'm wrong, that this is probably a larger system than was originally envisaged and costs have been going up. As a matter of fact, last year they went up about 10 per cent.

**Mr. Haggerty:** Almost 10 to 15 per cent every year.

**Hon. Mr. Auld:** I think 10.6.

**Mr. Haggerty:** In May, 1971, there was a letter from the Ontario Water Resources Commission and you wonder why they didn't move in this direction. It says the treatment works are designed for a capacity of 855,000 gallons a day, I guess it is, utilizing the activated sludge processes which are capable of providing for removal efficiency in the order of 95 per cent. The plant is presently servicing an area formerly known as the village of Crystal Beach and has been provided with additional hydraulic capacities in certain specific units in the plant so that the areas of Thunder Bay, Ridgeway and Bay Beach can be served.

By looking at that letter there, the plant at Crystal Beach was built large enough to look after this particular area.

**Mr. Caverly:** Why was it changed, Mr. Cockburn?

**Mr. Cockburn:** I think the change was necessitated by the reorganization of the municipal boundaries and the regional government.

We did look at the time at whether we had a practical proposal. We looked at it with the regional technical group that we meet with and thought that it had to be restudied in view of the changes in planning and the picking up of these areas. I agree it's unfortunate, but this happens quite regularly in projects as conditions change. We were in no position to proceed with the original proposal at that time.

Certainly it adds to the cost, and it adds to the time. There is nothing that we would like to see better than to have these things go almost immediately.

**Mr. Haggerty:** In the new proposal, is it planned to capitalize on the existing sewage treatment plant in the village of Crystal Beach?

**Mr. Cockburn:** I haven't read the report myself. This was to be studied in it and certainly it would be part of it. Crystal Beach plant would be part of it. Whether there is any additional capacity or any additional plants I can't really say. I haven't got involved in the technical aspects of it.

**Mr. Haggerty:** Are you aware of the critical need for sewage treatment in particular in this area?

**Mr. Cockburn:** Oh, yes.

**Mr. Haggerty:** Are you aware of the many citizens who have to go out and purchase the

rental services of Johnny-on-the-spot? Conditions are that bad that this is what some of the residents have to go out and purchase or rent.

**Mr. Caverly:** I think, Mr. Haggerty, if I see this right, we are prepared to move at any time, but the delay here has been primarily at the region's doorstep.

**Mr. Haggerty:** I have been in contact with the regional municipality of Niagara and they tell me it's over here in the department in Toronto. I believe I have talked to you on this matter, Mr. Caverly. I know you have been a great help to me on it.

**Mr. Caverly:** I really don't know the details on this one.

**Mr. Cockburn:** There has been a transition period with regional Niagara, as there is with every region, working out how their technical staff work with our staff and who approves of what and at what time. This was one of the ones that was in that particular situation. It was complicated to a degree by the experimentation with them undertaking the operation of all the works in the area, which added a load on them that they weren't aware of. The next one that comes along, whether it's in Lincoln or wherever it might be, they have this experimentation period out of the way. This did happen to this one. The operating costs were a problem for them to work out and it took a period of time at that time.

There is the question of when we receive the report, do we send it out to them and how much approval do they have of it before it goes to our own approvals people? There is time taken week by week adding up to months really. This is where the problem was. I think that every time you do something once with an agency such as that, then you have got it resolved for the next one. It's unfortunate that this one was the one that maybe suffered to a degree from it, but any in the future now will benefit from it.

We meet with that regional group; at one time we met monthly but we now meet quarterly with them to review any problems.

**Mr. Haggerty:** I believe I've given the minister some paper clippings there. The criticism naturally is thrown back at the minister, saying it's his ministry that holds matters up.

**Mr. Cockburn:** I don't think we had that from Mayor Teal this week. We reviewed with him, and I think he was quite satisfied



with this particular one, that he would be getting the proposal and the background associated with it. Certainly he has been very concerned over the past three, four, six months, in getting going, along with the East Bertie system.

**Mr. Haggerty:** Well, on this particular portion of the sewage scheme, if I can recall, in talking to your ministry here last December, they said that it would be finalized in January; and now you tell me it's another two months to go, almost, before it's finalized, that you're working out the cost factor.

**Mr. Cockburn:** I think I have to fall back on this operating cost problem. Certainly if I send them over to our own operations branch and say: "Give me some operating costs for this," we have almost a 24-hour service with them, so I mean we could have said at that time this is the way it would be going, but it just didn't work out that way.

**Mr. Haggerty:** I don't think municipalities had that much of a problem when everything was under the Ontario Water Resources Commission. I don't think they had this red tape to go through when you applied under the provincial scheme. But some place along the line there is just too much red tape involved now.

**Hon. Mr. Auld:** There is a little additional red tape because of regional government and I don't think anybody, at least I certainly wouldn't argue that is the case. On the other hand, any time there is a change—and this often happens from the municipal end, because I've seen a number of them in the year that I've been around here; somebody would say: "We just have one more subdivision." Well, you never know. Maybe you can hook it in if it's sewers by gravity; but maybe there's a pumping station and somebody has to re-engineer a whole lot of trunks just to see the most economical way of doing it.

It is really surprising to me, as a layman, when I look at what appears to me as a very slight change, what difference this can make to the engineering.

**Mr. Haggerty:** I might add, you know, there is a problem of planning in the municipality, but again I don't think you can blame it on the past local council or the present. Much of this township was, I believe, subdivided back in 1905 or something like that. Big speculators were going to provide a new city for the city of Buffalo, this is the whole plan there.

All these lots were all subdivided years ago,

and of course they were 35-ft lot frontages up there. I remember that in council we changed the rules and regulations on lot sizes that there had to be almost three lots before they could build or construct a home on it. Some had water services years ago, by private source, and then when the Ontario Water Resources Commission came in that solved one of the problems, but now the other one is sewage.

**Madam Chairman:** Any further questions, Mr. Haggerty.

**Mr. Haggerty:** Pardon?

**Madam Chairman:** Any further questions?

**Mr. Haggerty:** Well, that's about it. As long as I can get some guarantee here tonight from the minister and his staff that they're going to get on with the construction of sewage in this particular area.

**Hon. Mr. Auld:** Well, as of this moment in time, if somebody doesn't change something that's the schedule.

**Mr. Haggerty:** You're going to start moving are you?

**Hon. Mr. Auld:** Oh, we're moving.

**Mr. Haggerty:** Do you want me to put a stick of dynamite under him to get him going?

**Hon. Mr. Auld:** Not really!

**An hon. member:** But try and move it the other way.

**Hon. Mr. Auld:** Not in here at any rate.

**Madam Chairman:** Thank you, Mr. Haggerty. Does this vote carry?

**Mr. B. Newman (Windsor-Walkerville):** No, I have a few questions.

**Madam Chairman:** Oh, sorry, Mr. Newman.

**Mr. B. Newman:** We're on vote 1803 are we?

**Madam Chairman:** Vote 1802.

**Mr. B. Newman:** It is 1802?

**Madam Chairman:** Does vote 1802 carry?

Vote 1802 agreed to.

On vote 1803:

**Madam Chairman:** Now we're on 1803, Mr. Newman. Air management?

**Mr. Good:** Air and noise?

**Hon. Mr. Auld:** Pardon?

**Mr. Good:** Do we do noise?

**Hon. Mr. Auld:** I would trust though, that we might deal with this by items; because there are air, waste and pesticides; and noises are under air, so we'll all be quiet.

**Madam Chairman:** We have Mr. Martel, Mr. Laughren, Mr. Burr. Is there anybody else?

**Mr. Good:** Are you taking orders?

**Madam Chairman:** I'm taking speakers. Mr. Martel!

**Mr. Minister,** are you taking it item by item?

**Hon. Mr. Auld:** If everybody agrees, I think that might be best.

**Madam Chairman:** All right! The first one then is air management.

**Mr. Martel:** It has been a long time, and I have a good deal of material spread out before me here.

**Mr. Haggerty:** Happy Valley?

**Hon. Mr. Auld:** I'm glad to see you put your smokey cigar down.

**Mr. Martel:** Oh yes; well, I won't have time in the next little while to puff on it, except during your answers, which I'm sure are going to be full and detailed and so forth.

**Hon. Mr. Auld:** Always!

**Mr. Martel:** Well, Mr. Minister, first of all, I don't know where to start. You must have the federal government really bamboozled, eh? I got a letter from Jack Davis during—

**Hon. Mr. Auld:** I've never had that high a compliment before.

**Mr. Martel:** Well, I think you bedazzled them with your footwork.

**Mr. F. Laughren (Nickel Belt):** It didn't take much.

**Mr. Martel:** Well, during the federal election a storm broke in Sudbury over the amounts of pollution, both in the form of arsenic and in the form of particulates—fine particles—and the whole business. And Jack Davis got on TV one night and said, "Welcome to the club," when David Lewis commented that it was time the government did

something to curb pollution in the Sudbury area. Imagine the federal government saying: "Welcome to the club."

They didn't even know Sudbury had a pollution problem, because their member for Sudbury—well, he made one speech in the House in four years on pollution, just a few less than me.

Jack Davis indicated there were a sufficient number of monitors in the Sudbury area. I wrote him, and I put in that letter a promise made by your predecessor, which you have never honoured.

**Mr. Good:** Aren't they beholdened to those?

**Mr. Martel:** Apparently they aren't.

He had promised that additional monitors would be placed in the Sudbury area. In fact the Tories were so enthralled by that promise by George Kerr that they purchased the film and ran it as a bit of gimmickry during the last provincial election. It didn't help them much, by the way.

**Mr. Haggerty:** It paid off.

**Mr. Martel:** It paid off; they have no members now in the Sudbury area.

But they purchased and used it, and your predecessor promised at least two more monitors, and you continuously refuse to give that. Davis falls right in line with you and suggests there's enough monitoring in the Sudbury area.

Now, what gives? Everyone's aware that George Kerr didn't make that promise for nothing. He knew there weren't sufficient monitors to really do the job necessary in the Sudbury area. When can we expect those promises to be fulfilled?

**Hon. Mr. Auld:** From my sort of non-technical standpoint I know that we have the minimum number of monitors to give us reasonably accurate readings; perhaps not with every switch in the wind.

Again, it's the question of budget and we discussed this last year.

**Mr. Martel:** Right!

**Hon. Mr. Auld:** As to, first of all, the capital cost and then the operating cost, the telemetering and stuff like that. My understanding is that almost anything can be improved, but we feel we have an adequate system in Sudbury. But I think I would ask Colin Macfarlane to—

**Mr. Laughren:** Adequate?

**Mr. Martel:** I'm not sure what you mean. Adequate for what?

**Hon. Mr. Auld:** To get a reading to give orders for warnings or shutdowns, for cut-backs when the meteorological conditions indicate it.

**Mr. Laughren:** Well, pardon my interjection, but that's really an insult; it really is, when you have a monitor there on which the reading is determined by the direction of the wind. That really just can't wash any more.

Sorry, Madam Chairman, but we've heard that nonsense for too long.

**Hon. Mr. Auld:** Well, there's no point in putting a monitor upwind of the prevailing wind, if we only have one.

**Mr. Laughren:** Well, you should have more than one monitor.

**Hon. Mr. Auld:** And if you have five, you put them in the areas where the winds are most likely to prevail.

**Mr. Martel:** Right.

**Mr. Laughren:** Why don't you put it at the source?

**Hon. Mr. Auld:** Well, we're going to have—or is it working yet? Not in Falconbridge, but in Inco's big stack. The sampling equipment is being installed; or is it installed now Colin?

**Mr. C. J. Macfarlane** (Director, Air Management Branch): On June 18, sir.

**Mr. Good:** The main stack?

**Mr. Martel:** Well, be that as it may, my colleague is right on, because if you get the wind in the proper direction daily you would have counts that would be forcing those two major corporations to cut back daily, but because prevailing winds are such that you don't hit the monitors on any given day, except when all climatic factors are precisely right, on those occasions the monitor skyrockets. It occurred a week ago Saturday, when in fact the API in a matter of five hours went from 1 to 32, I believe, and within a couple of hours was up to about 49. There are two things that bother me, first that—

**Hon. Mr. Auld:** If the API went up to that, then it must have been because our monitors were working and registering and gave us the API.

**Mr. Martel:** Right. That is not the real issue, is it, Mr. Minister? On any given day that same amount of stuff is being spewed out but the wind directions aren't such as to put it directly over the monitor.

**Hon. Mr. Auld:** The point is, as we have said many times, that it is a question primarily of what hits the ground where people are. We all know there is a great deal of sulphur dioxide, for instance, going out of those stacks, and currently there is no economic and technologically effective way of removing all of it or even a great proportion of it. You can reduce a fairly high proportion, but the volume is such that unless you got 99 per cent there is still going to be a lot. So it is really a question of how much it is dispersed and where it hits and in what concentration. That is the basis of the location of the monitors.

**Mr. Martel:** But the volume is there daily, that is the point I am making.

**Hon. Mr. Auld:** Oh, sure.

**Mr. Martel:** And it is not being recorded as high daily because of the way the wind is dispersing it. My argument is that with one monitor really, the Ash St. monitor that Copper Cliff affects, there is a distortion in what comes out of the API except on those occasions when all the conditions are right, but the actual volume is still coming out.

**Hon. Mr. Auld:** We will never know until we get the stack sampling. At the moment, the emissions are calculated on the analysis of the ore and a certain amount of theory as to what happens in combustion and so on. When we have the stack sampling, and if it works properly, we may have a better idea of what in fact is going up the stack and then we can relate it to what we register on the ground, both in the automatic monitors and the ones that sit around and are checked every week.

**Mr. Martel:** But I am sure the minister has to agree that this is a false way of pacifying the people, because unless they see the reading and the reading says it is 32, they are really not aware that almost the same volume is coming out daily. They think it is much less, except on those occasions when all the climatic factors are right to put it directly over a monitor, which causes it to skyrocket. In fact, the same volume is coming out daily, the same amounts are entering the water streams and the same amounts are killing the vegetation and so on.



**Hon. Mr. Auld:** I would think that is right, assuming that the production rates are the same.

**Mr. Martel:** Right. That is why the one monitor is a disservice, because it allays fears when in fact those fears should not be allayed.

**Hon. Mr. Auld:** But if the fears are based on the effect of air pollution on health—

**Mr. Martel:** They don't think it is that, because the API isn't high that given day.

**Hon. Mr. Auld:** Then there is no great hazard to health, because the concentration is being very much dispersed.

**Mr. Martel:** No. If the winds shift away from the monitor at all then in fact you don't have the accurate reading that would be there if you had a monitor to monitor in that particular direction.

**Hon. Mr. Auld:** How many monitors do you think we would have to have?

**Mr. Martel:** I think you would need about four.

**Hon. Mr. Auld:** How many?

**Mr. Martel:** About four. I know how many of the little ones you have—17 I think it is.

**Hon. Mr. Auld:** Well, we have quite a few. Colin, would you like to give us a rundown of what there is there?

**Mr. Macfarlane:** In Sudbury city we have three SO<sub>2</sub> monitors, one carbon monoxide monitor, one hydrocarbon, one nitrogen dioxide, one oxide of nitrogen monitor, four co-efficient of haze monitors—instruments giving a measure of finely divided particulate matter—three high-volume samplers, these are for suspended particulate measure, 16 sulphation candles, 16 dustfall jars, two fluorine candles and wind instruments to go with it. These are the air quality measurements in Sudbury city. In the airshed there are 10 sulphur dioxide monitors, eight high-volume samplers, 16 sulphation candles and 11 dustfall jars. In Falconbridge there are two sulphur dioxide measuring devices and two co-efficient of haze monitors.

**Mr. Martel:** But how many ones that record the APIs have you?

**Mr. Macfarlane:** Two stations, one at Happy Valley.

**Mr. Martel:** Right. Those are the ones I am talking about, because I disbelieve the

readings that prevail and that is why I suggest four, to cover the wind directions to some degree. I know we can't put one every 10 ft, I accept that. But, I would suspect that your predecessor felt, as I do, that there were at least a couple more necessary to get a more accurate daily reading recorded than in the present fashion, because the fears are there and they are not unfounded.

There are so many studies going on in the Sudbury area at the present time I can't keep track of them all, but in fact there is real concern. The first concern is that the public should be aware that every day the volumes are great and that is not seen on the API. They just think, "If it is not recorded there, then it is low. So what the hell is Martel shooting his mouth off about?"

I just think that has to change; you have to honour the commitment made by your predecessor and you have had two years. We waded through last year's budget, it wasn't there, but we are into a new year, Mr. Minister. I just don't think you can shuffle it aside. It was deliberately used as political chicanery during the last provincial election and I think you have to honour that commitment.

**Hon. Mr. Auld:** If, in fact, that is what it was, it was rather unsuccessful.

**Mr. Martel:** Right. But it is one of the reasons people in northern Ontario are turning away, because they are tired of window dressing, Mr. Minister.

**Hon. Mr. Auld:** What are the statistics on the prevailing wind direction and how often does it change? What is the effect on our monitoring system?

**Mr. Macfarlane:** I don't have a good answer at the moment, but I can certainly get that information.

**Mr. Martel:** Would you not think that four monitors would do a much more efficient job for you? Maybe the minister doesn't want one of his staff to answer, maybe—

**Hon. Mr. Auld:** I would think that they must, if you want to cover every conceivable condition. You might not get them every 10 ft, but does it matter how far from the suspected source you put a monitor?

**Mr. Macfarlane:** How far? Yes, it does depend to a great extent on the geometry of the source of emission and where the monitor is. The site at Ash St. was particularly chosen because it was more likely to have

higher readings than anywhere else that we were aware of in Sudbury city.

**Hon. Mr. Auld:** If we were trying to get the ideal would we settle for four or would we have to have eight to cover several sources? It is always a question, really, of budget, because Sudbury is not the only problem area in the province.

**Mr. Martel:** Right. Except, what this government doesn't want to accept, and what I have been able to gather, is that by and large Sudbury is probably the most ravaged area for pollution in the province. From the figures I have been able to gather, figures submitted out of Washington, we are getting about one-eleventh of the total output in the United States in the Sudbury area alone. We are not talking about a small plant like you might have in Toronto which everyone gets excited about. My God, we get that every day.

**Hon. Mr. Auld:** Really, the question we are talking about is, for instance, in Toronto at the moment—correct me if I am wrong, Colin—because of the other measures that have been taken, about 60 per cent of the  $\text{SO}_2$  in Toronto comes out of the Hydro Lakeview plant, simply because it is the biggest single consumer of material that produces  $\text{SO}_2$  and  $\text{SO}_2$  is a very difficult thing to remove. In fact, Hydro's current plant—and we have been talking to the feds about taking part in the experiment—is about a \$10 million project to build a line scrubber for 100 megawatts, which is rather a small part of the operation. Nobody really knows whether it will work.

What I am getting to is if you have a very large source of a certain kind of contaminant, and because of the economics of industry there are only one or two of these or four or five on the continent, then obviously the area where that is is going to have a high reading.

**Mr. Haggerty:** Particularly with a Hydro generating station, as there is no way that you can recycle some of that gas. I don't know the process of it actually, but if you work with coke ovens there is a certain amount of gas that comes off that that you can use—not natural gas, but you can use it for the same purpose. Is there any way that some of this gas that escapes can be used for this type of recycling?

**Mr. Macfarlane:** No, sir, not at this stage. I can't really see it.

**Mr. Haggerty:** Not at this stage. There is no apparatus or equipment that can be built

into there to reclaim some of this? How about when they manufacture coke in the coke ovens, is there gas that comes off there that they can use for the purpose of home consumption?

**Mr. Macfarlane:** The process is rather different in this sense. The idea behind any power station is to get the very maximum out of the coal and put the very minimum up the stack, but unfortunately the very minimum includes the waste gases, which include sulphur dioxide. To this moment there is no really successful means of reducing sulphur dioxide from plants such as the Lakeview plant in Toronto here.

**Hon. Mr. Auld:** Except to buy more expensive and lower sulphur content fuel.

**Mr. Macfarlane:** Yes.

**Mr. Martel:** I want to get back to this. You see, that isn't the only problem. There is another problem. I for one have never been able to understand what in God's name the Ministry of Natural Resources is doing through its mine section, why it is doing the monitoring within the plant.

**Hon. Mr. Auld:** That has to do with some of the legislation involving Natural Resources. Our responsibilities are outside manufacturing operations; Workmen's Compensation Board, Health and so on, set the standards inside.

**Mr. Martel:** Sure, but you see there is a great amount in Copper Cliff, a great amount of plant gas that goes out into the community, literally tons of it. It doesn't go up the stack.

Unfortunately, the companies are old and they have a lot of obsolete, or near obsolete equipment; and there is a great quantity of gas escaping at plant level that is detrimental. One only has to look immediately beyond the town of Copper Cliff, or one only has to look around Coniston, or Falconbridge. In fact, it isn't always just stack gases.

If we are going to have any type of continuity of control I fail to see why it isn't in this department. That is one reason. The other is because I have accused and continue to accuse the mining department as being the most amoral department in government, because every joker that works for that department is a former mining company official. And if you ever saw anything so amoral in your life it is that group of people. They have no interest in protecting the men's health from gas, or anything else. At heart, their

primary concern is the company; and it should be in your department.

In fact, every time I speak now I try to get the Minister of Labour (Mr. Guindon) to take over safety inspection and away from that department. I would like to see you take over the monitoring of the plant gases that are escaping to not only detrimentally affect the men, but at the same time to get into the community at large.

We are not getting it from them, Mr. Minister, we just aren't—and there is no one who doesn't agree in the Sudbury area. Talk to anybody in the mining industry and they will tell you the same thing. You should take that over because it just seems natural that if we are going to deal with pollution, if we are going to deal with problems of air and air quality, that you should have the total bag, not just part of it.

**Hon. Mr. Auld:** At the moment we don't.

**Mr. Martel:** They just have advisers. Mr. Mastromatteo does much of it.

**Mr. F. A. Burr (Sandwich-Riverside):** In noise pollution is there the same division—in-plant noise—is there going to be the same division?

**Mr. Martel:** There should not be, it should come directly under the person who is responsible for quality of air in the province. How can you have continuity, Mr. Minister?

**Hon. Mr. Auld:** At the moment it isn't and—

**Mr. Martel:** Right, and it should be changed.

**Hon. Mr. Auld:** I suppose the place to discuss that proposal is in the House where—

**Mr. Martel:** You are the minister responsible for air quality in this province. You can't divide air and put a barrier up and say, "Hah, when we reach the plant gate it belongs to somebody else." It doesn't have that faculty.

**Hon. Mr. Auld:** We don't want to get into a philosophic discussion about lines of authority within the government, but at the moment it isn't.

**Mr. Martel:** Well, it is a serious problem, Mr. Minister, and as I say, you can't simply put an artificial barrier up and say your jurisdiction ends here and somebody else's starts. If we are going to talk about the quality of air, it should come under your

supervision, where it is best to have it; but all aspects of it with you. To me it makes abundant good sense. I am sure the minister doesn't want to commit himself but I would hope that he would take it to his colleagues and press for it. You have the expertise in here, you probably have the best technical staff in the province of all the ministries.

**Hon. Mr. Auld:** They are a very competent group.

**Mr. Martel:** Yes, they are, they are very capable and they should just have the whole thing and not have it—

**Madam Chairman:** Do you have some other points, Mr. Martel?

**Mr. Martel:** Oh, I am just warming up, Madam Chairman. I haven't even taken time for a first-inning stretch yet.

**Hon. Mr. Auld:** What time is your plane tonight?

**Mr. Martel:** I am driving out. Well, I would hope you would consider that, Mr. Minister. I suppose you won't disclose to me that you will, but I would hope you would take it under advisement.

**Hon. Mr. Auld:** I always listen.

**Mr. Martel:** I want to get back to the API for a moment and see if it is possible to calculate what would have been the actual reading at a specific time, not based on a 24-hour cycle as we now do it.

About two weeks ago in Happy Valley it went from 1 to 32 in about four hours and then up to about 49 in another couple of hours. What would have been the reading, let us say, at the end of the fifth hour when it had gone from 1 to 32 in five hours? Now, on a 24-hour average it was 32. Is it possible to calculate what the specific reading was at hour five? I think you understand what I am trying to get at.

**Mr. Macfarlane:** Yes, I understand. You are posing a question which is almost unanswerable because the air pollution index was set up for a 24-hour running measure. What we can provide and I think we have provided it, is the hourly average sulphur dioxide levels.

**Mr. Martel:** But the reading would in fact have had to be far in excess of 32 at that particular time if it was calculable.

**Mr. Macfarlane:** There is no comparison though. You don't equate one hour with 24 hours. The API is set up for a health con-



sideration, which responds in a lengthy period of exposure of the order of 48 hours.

**Mr. Martel:** Right! I understand that for health reasons it is spread over and calculated for what the TLB might be, if we are talking in plant terms, and so on.

**Mr. Burr:** But it was zero five hours before.

**Mr. Martel:** It is not possible if it was 1 and five hours later it was 32; that in fact would have had to be a fantastic reading to go from 1 to 32.

**Mr. B. Newman:** And 1 for four hours and then average off at 32 on the fifth.

**Mr. Martel:** People tell me, Mr. Minister, they couldn't see from one house to the next, it was just a blue haze that was hanging in there.

I got your letter that you were speaking about, where I couldn't contact your people; but there is still someone misreading my letter. After I reached Sudbury, I concede that the answering service couldn't give me the number. But when I got to Toronto, that is where you and I part company.

In your letter you say you can't expect the answering service to give out the information. That is quite right. But why couldn't Toronto give it to me; and they refused. They tell me they refused because those are the instructions down here. I was talking to Toronto and it was Toronto that told me—

**Hon. Mr. Auld:** At our 24-hour centre?

**Mr. Martel:** Yes, here in Toronto. They told me that they could not give me the resident engineer's number who was on duty in North Bay at that time. It wasn't just Sudbury, it was Toronto as well, and they said there were specific instructions not to give that number to the person who was on duty at the time.

**Hon. Mr. Auld:** The person on duty here is instructed not to give the number of our man in North Bay?

**Mr. Martel:** That is right.

**Hon. Mr. Auld:** What was your question to our person here?

**Mr. Martel:** I wanted to know what they were going to do, whether the company had been ordered to cut back. When it had gone from 1 to 32 and then to 36 and then to 38 in a matter of five or six hours, people were kind of in a panic. I wanted to know just what in God's name was going on; whether

the company had been contacted to get in to see what was going on.

**Hon. Mr. Auld:** When it gets to 32 we notify the company.

**Mr. Macfarlane:** That's correct, sir.

**Mr. Martel:** I'm aware of that. But I just want to know if the company had been contacted. I want to talk to them, so I could phone these people back and say, "Look, they're wrong." But Toronto refused to give me the guy's number. And that is where you and I part company. In your letter of explanation, you indicate that the answering service couldn't give it out for a variety of reasons. But why not Toronto?

**Hon. Mr. Auld:** I really can't answer that, unless the fellow in North Bay was on holiday or not working or something.

**Mr. Martel:** He was there; he phoned me. He was working; he was the man on duty that weekend. That's all I was looking for: Who could I talk to?

**Hon. Mr. Auld:** Obviously what happened was the people here called him and said you were calling, and then he called you.

**Mr. Martel:** He phoned me.

**Hon. Mr. Auld:** Well, then you got the information.

**Mr. Martel:** Well, sure, but I had to make a number of phone calls and sit and wait. They told me they would try to get hold of him and have him contact me.

**Hon. Mr. Auld:** And they did.

**Mr. Martel:** He did. And I appreciate it. But the point is, Mr. Minister, it would simplify it if I could just phone him.

**Hon. Mr. Auld:** I don't know; maybe he was out having dinner or something.

**Mr. Martel:** No, it was 4 o'clock in the afternoon. He might have been golfing, but I don't think he was.

But it's ridiculous—I phoned Sudbury, and Sudbury said no; and they phoned Toronto. I phoned Sudbury a second time and they said to me, "Well, just a minute. We are on the line to the man from Toronto." They talked to the man from Toronto and the man from Toronto said, "Wait, and we'll phone the guy."

I said, "Give me his number."

"No, we can't give you his number." Is it some kind of a cloak-and-dagger game we've got going on?

**Hon. Mr. Auld:** Maybe he only had one line; and if you were talking to him, then Toronto couldn't get him.

**Mr. Martel:** Oh, no, Mr. Minister. They tell me the instructions are that they are not to give out the phone number of the resident engineer on duty, and that the instructions come from somewhere within the department.

I think it is absolutely ridiculous that this type of charade should have to go on. Why couldn't I have the man's number, make a phone call and allay the fears of the people who had phoned by saying that the company has been advised, assuming that was the case, that the superintendent was on his way in, because it came so suddenly, and I would have known what was going on?

**Hon. Mr. Auld:** I would speculate, since an order emanates from the director, that the director tells the regional man to get in touch with the emitter. And if you the call the regional guy, he probably can't say anything definitive, because he hasn't got his instructions from the director, who is the one who has the authority under the legislation.

**Mr. Macfarlane:** The purpose behind this is to avoid calls at people's homes at day and night. This is the substance of it. The reason that the call is made via central office to our local people to call back is to avoid calls at 2 or 3 in the morning which are frivolous, as might happen.

**Mr. Martel:** I am in complete agreement with that. I am not wont to get up at 3 in the morning to phone someone, though. I have had occasion, when it got so bad, to phone the former minister direct at 7:30 or 8:30 when he was watching the hockey game, because I couldn't find anyone else to talk to.

**Hon. Mr. Auld:** Occasionally people phone me at 2 in the morning.

**Mr. Martel:** Oh, I have that happen.

**Hon. Mr. Auld:** I get the answer to their question, then a week or two later at 2 in the morning I phone them and give them the answer.

**Mr. Martel:** I have been known to do that recently.

**Hon. Mr. Auld:** I think it works really quite well.

**Mr. Martel:** I have done that recently with a compensation man who had been off work for a year and who phoned me at 5:30 in the morning. He had just come back from a hunting trip, half-gassed. And I arranged, when I got the reply, to phone him back at the same time.

**Hon. Mr. Auld:** Did you get half-gassed before you did it?

**Mr. Martel:** No, no. I was half groggy, though; I was trying to wake myself up just to punish him.

**Hon. Mr. Auld:** You haven't really recreated the situation though?

**Mr. Martel:** Not quite the same. But I just think I should have access to that sort of thing, Mr. Minister, so that I can contact someone and assure the people that the thing is being worked on.

**Madam Chairman:** Do you have other points you want to raise, Mr. Martel?

**Mr. Martel:** Oh, definitely. I am not quite finished with this one yet, Madam Chairman.

**Madam Chairman:** We have to move on.

**Hon. Mr. Auld:** I tell you what we will do. Because of your deep interest, we will get you the home phone number of our guy in North Bay; and if it turns out that you do get half-gassed and phone him a few times at four in the morning, we will pay to have his number changed, and then we won't give it to you.

**Mr. Martel:** All right. You'll find I won't do it very often.

**Mr. H. C. Parrott (Oxford):** What do you do if he resigns?

**Mr. Martel:** Get another man.

**Hon. Mr. Auld:** You mean Elie?

**Mr. Martel:** Oh, God no!

Interjections by hon. members.

**An hon. member:** Is there some hope for that?

**Mr. Martel:** That's the only way you are going to win Sudbury East—if I resign.

**Hon. Mr. Auld:** Oh, we'd miss you.

**An hon. member:** Happy Valley wouldn't be the same without you.

**Mr. Martel:** Mr. Minister, I want to talk about a couple of task forces—no, let's talk about Happy Valley first. I just didn't want to leave without that. It is now drawing to a conclusion, as I understand; we'll be able to put that file away very shortly.

**Hon. Mr. Auld:** I think that the solution is around the corner. You will be kept informed. Of course, as you are; then, at long last, we can move that monitor.

**Mr. Martel:** Yes, we'll move it to an appropriate location, though.

**Hon. Mr. Auld:** I'd be delighted to have you discuss with Colin where it might go.

**Mr. Martel:** I'd like to do that; I think it should go somewhere in the Coniston-Falconbridge-Garson triangle. That area is probably the most ravaged now in the Sudbury area.

**Hon. Mr. Auld:** Someone said earlier today about the SWEEP programme—I guess it was Tom Wardle—that we should have a sign up when people are picking the stuff up; we might just have a little ceremony and put your name on it—we'll engrave it.

**Mr. Martel:** Would you do that?

**Mr. Laughren:** The Martel Monitor!

**Mr. Martel:** That would be just great. I would go down in posterity.

**Hon. Mr. Auld:** We'll put your name on the bottom, of course.

**Mr. Martel:** Why on the bottom? People would have to turn it upside down to make sure they could see it.

**Hon. Mr. Auld:** We wouldn't want the elements to deface it.

**Mr. Martel:** You could always put it in a glass case.

Mr. Minister, I believe there is a real problem with respect to what is happening to the aquatic life as a result of the  $\text{SO}_2$  fallout at Killarney Lake. In fact, I am told one of the reasons the government of Ontario is making that a wilderness park is because all the fish are dead, and that is a good place to make a wilderness park.

I would like to refer to the study done recently by Richard J. Beamish and Harold H. Harvey. I can well recall bringing this up about four years ago over in the Macdonald Block when Dr. Clark was the chief biologist, I guess, of the Department of Natural Resources.

I indicated to him that I thought the fish and other aquatic life were dying in the Killarney Lake area because of the sulphur dioxide mixing with the water to form sulphuric acid and, as a result, the fish were not able to reproduce. Old Dr. Clark nearly had heart failure when I suggested that. He said I was dead wrong; I didn't know what I was talking about; and I was guessing.

Yet, this very interesting study, completed in 1972, I guess, indicates that I was dead on. It indicates that in certain lakes where they have done considerable testing, the fish can't even reproduce and that this is an ever-growing problem around the Sudbury area.

I guess that is one of the reasons I would like to see more monitors—despite the fact you don't have the high APIs daily, the damage is still going on. The pH in all of the water in the immediate vicinity of Sudbury is very high. The acidity is very high.

**Hon. Mr. Auld:** The pH is very low.

**Mr. Martel:** Well, high in terms of acidity; low in terms of numbers, if you want to talk about the number game—3.4 or 4 and things like that. I am sure your staff has these figures.

**Hon. Mr. Auld:** Almost like Coca-Cola.

**Mr. Martel:** Well, it wouldn't dissolve some nails I think.

I guess that is one of the reasons I want more indexes: this is going to continue unless we are in a position to prevent it. The fears of the people in the area, although somewhat allayed by not having high counts daily, might not be as great as those of the tourist operators and so on in the area, who have a great fear. You're getting a tremendous amount of correspondence from them now, based particularly on this study, which would indicate that this is going on regularly and it's not going to get any better. Just what are we going to do about it, Mr. Minister?

**Hon. Mr. Auld:** I'm not technically qualified to really answer in detail, but my recollection is that there have been a number of studies by various people. The pH readings are constant. The argument is to whether the cause is entirely airborne, partly airborne or entirely from the soil and the leaching and stuff. We have discussed this with the government of Canada, with Mr. Davis and the federal environment people, to get into an even more detailed research programme to see if this can be pinpointed. Brad is involved—we've had a group from ourselves and



Natural Resources—and he might just sort of bring us up to date.

**Mr. W. B. Drowley** (Executive Director, Air and Land Pollution Control Division): There's a study which we're looking at which is a complete study of the aquatic life, the pH, trying to relate the concentration of the plume and changes in the pH and natural leaching and so on, and what can be done to reclaim lakes. This is under consideration with Environment Canada right now, and Natural Resources and this ministry.

The one that is starting will start at the end of June. This is being done with the atmospheric science group of Environment Canada and ourselves. It consists of actually flying the plume from the 1,250-ft stack, sampling it, at the same time carrying out the stack sampling, and relating these two and relating the fallout—if you want to call it fallout—on to the land and on to the waters. That part of the study will start at the end of June.

**Mr. Martel:** That involves yourselves—

**Mr. Drowley:** Ourselves and Environment Canada.

**Mr. Martel:** Not Natural Resources.

**Mr. Drowley:** No, not the initial one of the 1,250-ft stack.

**Mr. Martel:** But there is another study then, with Natural Resources involved?

**Mr. Drowley:** Yes, there is, and this we hope will follow later on. We want to get this one done with the stack immediately.

**Mr. Martel:** But that committee was set up a year ago with Natural Resources and Laurentian University. I have a list of people involved in it in my files somewhere. George McCormack from Natural Resources was on it. I think Dr. Watson from Laurentian was involved in it. These two aren't the same study then?

**Hon. Mr. Auld:** John Neil has that information.

**Mr. Neil:** That committee was basically a review committee to put together all the existing information that we had and to formulate the study which Mr. Drowley has been discussing now. This was really background work to that, and has led to the current programme that is under consideration now.

**Mr. Martel:** Then you've got the background information on which this new group is going to work?

**Mr. Neil:** That's right.

**Hon. Mr. Auld:** Yes. There is some further information though, that we want to get. As a matter of fact, the other day I was looking at a satellite picture of what purported to be the plume from Sudbury going somewhere in Michigan.

**Mr. Drowley:** No. This was over the Bruce Peninsula.

**Hon. Mr. Auld:** Well, I was close. And what we're curious about is what's in that picture. Is it water vapour? What's in it? How far does it go? Might things come from other places? That's going to take a long time to find out.

**Mr. Martel:** I have high hopes, you know, that the big stack will give it to you down here if we can get it up high enough; then you'll really be concerned. I'm really hoping that, because I'm told that the old stack—well, I know it's the old stack from the Dreisinger report—was killing trees seven miles west of North Bay and if we can get this big stack high enough, which is at least double the height, we should be able to get it down to Barrie with any amount of luck.

Imagine all the dead elms you'll be able to have winter works for if it starts affecting the elm trees as the small stack has affected the white pine and so forth in the Sudbury area as far as North Bay. Won't we be in great shape then?

I'm hopeful that it will come that far because that way the government is going to really get serious about the problem. They really haven't yet.

In trying to follow it, you know, the gymnastics that go on are almost overwhelming. For example, you people talked about, and I have here before me a Fresh Water Institute memorandum sent to Mr. Yawney about a study you were taking—\$5 million spread over 15 years. What study is that?

**Hon. Mr. Auld:** Who are the Fresh Water Institute?

**Mr. Martel:** I don't know. I managed to get it sent to me. It's the Fresh Water Institute and it's addressed to Mr. Steve Yawney. "Both the provincial and federal Department of the Environment are now working in the area. We expect to start a \$5 million, 15-year study in 1973 or 1974. I have three other

publications soon to appear in JFRB if you're interested in this." Signed by Mr. Beamish, who did the report on La Cloche and Mountain Lakes.

What study is this? Is this the task force Mr. Drowley is talking about?

**Mr. Drowley:** Yes, this is it. It's not a 15-year study.

**Mr. Martel:** No?

**Mr. Drowley:** It's a five-year study.

**Mr. Martel:** Five years—a million bucks a year.

**Hon. Mr. Auld:** Who is the Fresh Water Institute?

**Mr. Martel:** I don't know.

**Hon. Mr. Auld:** So you won't have to wait for 15 years.

**Mr. Martel:** I suspect it's involved with this group who did this study.

I'd like to ask the minister, why is it your department really refuses to point its finger at those responsible for the problems in the Sudbury area?

**Hon. Mr. Auld:** Because there is still some question as to just who is responsible and to what degree.

**Mr. Martel:** Well, maybe the degree, but to ask who is responsible is just nonsense. A statement like that in the Sudbury area goes over like a lead balloon. You can't kid the troops up there. All of the studies indicate that the further you get away from the city of Sudbury the less is the acidity in the water.

I might put that another way. The farther out you get, the less the pollution. It's obvious in the vegetation, but from the various studies—and I've looked over the figures of the pH counts—the farther you get away from the city of Sudbury the less the pH is in terms of strength. There were fish and that in those bodies of water up until recent date. What are you trying to tell us? That it might not be Inco? Or it might not be Falconbridge?

**Hon. Mr. Auld:** What I am telling you is that until I, in my position as minister, have got sufficient evidence to deal with it in whatever form I have to, I can say I have all kinds of thoughts but I don't make any formal statements.

**Mr. Martel:** Well, what type of mutation do you think occurred that would have

caused all these lakes, all of a sudden, to become very high in acidity?

**Hon. Mr. Auld:** All of a sudden, are you sure?

**Mr. Martel:** Well, not all of a sudden; over the last 15 or 20 years.

**Hon. Mr. Auld:** Do you have any figures for 50 years ago?

**Mr. Martel:** Pardon?

**Hon. Mr. Auld:** Have you got any statistics for 50 years ago?

**Mr. Martel:** Statistics that people were fishing in the Sudbury area. My mother used to pick blueberries in Coniston. She couldn't find a blueberry bush—in fact she couldn't find a bush in the Coniston area.

**Hon. Mr. Auld:** What about the figures on the pH in the lakes?

**Mr. Martel:** Pardon? Well, we would never have had fish in them. If the pH was high, then in fact the fish wouldn't have been able to reproduce back then, would they? And those lakes and rivers would have been—

**Hon. Mr. Auld:** Maybe they had less to do then.

**Mr. Martel:** What—the fish?

**An hon. member:** Well, it's a possibility.

**Hon. Mr. Auld:** Not so many attractive lures.

**Mr. Martel:** You see, your arguments just don't hold water, because historically the fish were reproducing; they are not now.

**Hon. Mr. Auld:** I can't answer your question, you know.

**Mr. Martel:** No, you mean you don't want to answer it.

**Hon. Mr. Auld:** I can't answer it.

**Mr. Martel:** Oh, Mr. Minister. With all the data your people have now, you still can't answer the question—with the quality of people you have?

**Hon. Mr. Auld:** All I can tell you is that I know of two studies and the conclusions—I didn't read the whole studies but I think I understand them—the conclusions were different. They are both done by people with lots of training and technical background.

**Mr. Martel:** Of what? Studies for the Sudbury area?

**Hon. Mr. Auld:** Biologists or chemists or—

**Mr. Martel:** Well, Mr. Minister, for years the biologists from the Department of Natural Resources denied there was anything going on. In fact they went out of their way to make life miserable for us. They told us we were barking up the wrong tree. In fact, Dr. Clark's argument used to be that the reason for no aquatic life in Killarney Park was from the rocks that were there—the acidity from the type of rock formation. That just didn't come overnight. The people who fly into the area tell me that once you hit Parry Sound you can see the plumes from the stacks, and you can watch it drop in. As I say, my high hope is that—

**Hon. Mr. Auld:** The only answer I can give you at the moment is that we want to pursue this further with Environment Canada and try to correlate some of this information.

**Mr. Martel:** Do you have a sneaking suspicion who is doing it?

**Hon. Mr. Auld:** A sneaking suspicion of what?

**Mr. Martel:** Of who is responsible.

**Hon. Mr. Auld:** I—depending on—

**Mr. Laughren:** Don't be rash now.

**Hon. Mr. Auld:** A certain result wouldn't surprise me.

**Mr. Martel:** The results wouldn't surprise you? Well then, you have got some kind of idea.

I want to allay the minister's fears. I realize that the government is concerned that if it gets too tough with dear old Inco or dear old Falconbridge they will move out and open up in Guatemala or New Caledonia or Jakarta—you name it, they are there—and if we get too tough they will close down. I suspect you have got a big club, Mr. Minister, but the Tories would never use it. Tell them to close down and you'll take it over.

**Madam Chairman:** Mr. Martel, do you have some other points you want to make?

**Mr. Martel:** We are right on the topic, Madam Chairman, of what these people are doing to the area. I'm trying to elicit from the minister why he wouldn't suggest either to Inco or Falconbridge—

**Madam Chairman:** You seem to be repeating yourself at this point.

**Mr. Martel:** I'm what?

**Madam Chairman:** You seem to be repeating yourself at this point and I just wondered if you could move on to the next point you want to raise.

**Mr. Martel:** This is an entirely new argument that I am putting forth to the minister—giving him the support of this party that if Inco threatens to move out, we in fact will support the government of Ontario in taking over the operation.

**Mr. Laughren:** The chairperson is being provocative.

**Mr. Martel:** That is where the money is—it is in the mining—and if they want to move out they can't take the money with them, Mr. Minister.

**Hon. Mr. Auld:** And also in the distribution and the markets.

**Mr. Martel:** Well, we can get the markets.

**Hon. Mr. Auld:** That is really not related to this estimate.

**Mr. Martel:** A year ago Inco used as one of its reasons for not going ahead with a new plant that the demands from the ministry were such as to curtail the development. It was a red herring, as we later found out, but nonetheless it was used. Whether they directed it to you, they certainly directed it to the local press, that that was one of the reasons why they weren't expanding the pollution control equipment. It was going to be too expensive. And so there you scrubbed the programme. Well, they are playing a heavy-handed game, and I suggest if they are going to play that type of game that the government surprise them all to hell and say to them—

**Mr. Haggerty:** Did they have that same problem in Manitoba? It's almost the same process as what they have in Sudbury.

**Hon. Mr. Auld:** I think in Manitoba they purchased quite a number of square miles around them, so that the only problem then is, there would be nobody to complain.

**Mr. Haggerty:** Well, I don't quite go along with their policy of wanting to nationalize everything.

**Mr. Laughren:** Get that straight.



Interjections by hon. members.

**Mr. Martel:** Eric Kierans doesn't call it nationalization. You can't nationalize what you already own.

**Mr. Haggerty:** No, but this is—

**Mr. Martel:** No, we own the natural resources in the Sudbury area so how can we nationalize what belongs to us?

**Mr. Haggerty:** No, but I think you should be giving credit where credit is due. I mean, Inco has gone out and spent millions of dollars now. I am not here to defend Inco but if there is no other technology that shows how you get rid of all this, what do you do? Do you want to close them up?

**Mr. Martel:** That is a red herring.

**Mr. Haggerty:** I can tell you this much, that they are giving consideration, perhaps, to the ore of Guatemala, too.

**Mr. Martel:** You want to believe it. They will devastate that area and make their profits and get out without any responsibility to the community where they are located.

**Mr. Haggerty:** Once they do move out and go down there, what are you going to do? They are doing research on it now.

**Mr. Martel:** We are just trying to make them responsible citizens that is all; as you Liberals would say, "good corporate citizens." When they use the big stick approach on us we, in fact, should use our trump card and use the big stick on them and say, "Gentlemen, that being the case we will take it over, if you want to move out." I am not suggesting they aren't trying a little bit, Mr. Minister; I am just saying they are not trying hard enough. They try to hold you up for ransom and I don't think you should back off from that.

**Madam Chairman:** Excuse me, Mr. Martel, as you can hear the bells are ringing. The clerk is going up to find out whether it is a vote or a quorum and he will send word down.

**Mr. Good:** It is a vote.

**Madam Chairman:** It is a vote? Thank you.

**Mr. Good:** It is a vote to reduce Mr. Yaremko's salary to \$1.

**Mr. B. Newman:** You agree with that, don't you?

**Mr. Haggerty:** Have you got an amendment for 50 cents?

**Madam Chairman:** Go ahead, Mr. Martel.

**Mr. Martel:** I want to suggest to the minister that we would support him. I am hopeful that the results of this study will lead to our being able eventually to put some fish back into the lakes. The various associations have approached me and suggested that we should be right now restocking the lakes. Based on the study we have it would be obviously a waste of money. When they did restock the lake they found that out of the fish they put in and tagged within a couple of years, none was left.

**Mr. Haggerty:** Maybe they were all named Charlie!

**Mr. Martel:** Well, something has simply got to be done in the very near future to prevent this from getting any worse. As I say, I think much of it depends on the monitoring programme you are going to do; hopefully, you will put up the appropriate number of monitors. Hopefully, the study which is going to be launched sometime in June will lead to some positive identification of who is responsible and, ultimately, we can come up with some solutions to the problems facing those residents of the area. Thank you, Mr. Minister.

**Madam Chairman:** Thank you, Mr. Martel. Mr. Laughren?

**Mr. Laughren:** Thank you, Madam Chairperson. One of the things that has bothered me a great deal is the accusations that sometimes get levelled against me and my colleagues from the Sudbury area about being negative and about giving Sudbury the kind of reputation that detracts investment and tourism from the area.

**Mr. Martel:** Don Collins is a leading proponent of that.

**Mr. Laughren:** I want to tell you what we are trying to do. It is too bad that we weren't thinking along the same lines in this respect because, by pushing you and your people, this is exactly what we are trying to do.

We are trying to avoid the kind of ridiculous situation such as the Wall Street Journal reported. I am sure your people are aware of the Wall Street Journal of January, 1973, the midwest edition of the Wall Street Journal—when they reported a devastating story on Sudbury. They used the kind of language that

really would describe, perhaps, an 18th century mining town in Wales.

It gets a little tiring for us, trying to fight for improved quality of air in the Sudbury area but at the same time reaching you only superficially and seeing you offer the kind of extensions to the emission control programmes that you had instituted formerly.

It was really hard to understand when, in a question in the Legislature last fall, you stated that you were not anticipating any extensions to the programmes on which International Nickel had been placed, which would have reduced its emissions to a certain level by 1973—this spring I believe. Then you granted an extension, contrary to your earlier statement in the Legislature. I really wonder why you did that.

I would assume that there are only two reasons why you would grant such an extension—correct me if I'm wrong. One, technology was not available; or two, the economy of the corporation was such that it would have necessitated either a shutdown or a serious cutback in employment in the plants.

**Hon. Mr. Auld:** Not really. At that time the new stack for the iron ore plant had been just about to be in operation—

**Mr. Laughren:** You mean the superstack? That's at the smelter.

**Hon. Mr. Auld:** Yes, and at that time I don't think we had a formal request from them; subsequently we had discussions with them. The monitor had indicated that there had been a substantial change in the immediate area affected. We were concerned about snow sampling, for one thing—the fallout that we were doing in the snow sampling in the area to get the wintertime effect. We were also still discussing the question of getting a stack sampling device into the stack at the 300-ft level. Subsequently, after technical discussions between our people and Sudbury people, and some modification of their production from May 15 to Sept. 15, the cutback in production to reduce the amount of the total fallout which related to the closing down of—

**Mr. Martel:** Coniston.

**Hon. Mr. Auld:** —Coniston, yes; we came to the conclusion that there would be no change in the deadline for—

**Mr. Laughren:** 1978?

**Hon. Mr. Auld:** Yes, 1978.

**Mr. Laughren:** That's not going to change?

**Hon. Mr. Auld:** It has not changed.

**Mr. Laughren:** It's not going to change? Is that what you are saying?

**Hon. Mr. Auld:** It has not changed.

**Mr. Laughren:** Well, are you not prepared to make a commitment—

**Hon. Mr. Auld:** I don't know whether I will be the minister in 1978.

**Mr. Laughren:** If you are the minister—

**Mr. Martel:** All things being equal.

**An hon. member:** Pessimistic!

**Hon. Mr. Auld:** I will tell you in 1978!

**Mr. Laughren:** You told us in December, 1972.

**Hon. Mr. Auld:** Something might happen technologically, in which case we might conceivably advance that date.

**Mr. Martel:** Now, that would be refreshing.

**Hon. Mr. Auld:** I don't like to—

**Mr. Laughren:** Is the technology available right now?

**Hon. Mr. Auld:** No.

**Mr. Laughren:** It's not?

**Hon. Mr. Auld:** That's what I am advised.

**Mr. Martel:** I would just like to add one point to this—

**Hon. Mr. Auld:** Let me finish. So that with the change in production programme, the estimated effect in the area will be reduced to approximately what we anticipated for this coming season. So we have in effect said we will see what the results are of the changing pattern. We will give them that extension about the tonnage; whatever the standard is, anyway, that we have based the original order on.

**Mr. Laughren:** It was very poor, if I might say it, very poor public relations when that occurred. That was not fully explained and people just didn't understand why you had done that. You left yourself wide open for all sorts of—

**Mr. Martel:** And I took the opportunity—

**Hon. Mr. Auld:** Interestingly enough, early in January, we produced quite a lengthy

press release—about three pages—which set out the whole thing. We distributed it all over but apparently nobody printed it. David Lewis made a speech in Sudbury at some point or other and it all became news to everybody. People phoned me and said, "Why didn't you tell anybody?"

In fact, somebody phoned me from the Sun and said, "Why have you been keeping this a trade secret?" I said, "Do you ever talk to your guys up in Queen's Park? Just a minute, and I will call you back." I got a copy of that release out of the file and said to the person, "It is dated Jan. 3." It was sometime in January. "It was produced and distributed the day we made the decision."

**Mr. Martel:** It was a poorly worded thing. I thought you had a schoolboy about 12 years old draft that because it was so full of loopholes I had a real field day with it.

**Madam Chairman:** Mr. Laughren.

**Mr. Laughren:** Thank you, Madam Chairperson.

**Mr. Martel:** I just want to follow up on one point on this topic, Madam Chairman.

**Madam Chairman:** No, I am sorry, Mr. Martel. Mr. Laughren has the floor.

**Mr. Laughren:** Yes. You make me feel very uneasy about the kind of commitments you are prepared to make. How could you have made that commitment in the first place if the technology is not available? Surely the answer is not just to force them to keep cutting back their production. No one is suggesting that surely. Are you anticipating technology improvements? Is that what you are doing?

**Hon. Mr. Auld:** We are encouraging people to work hard to find them.

**Mr. Laughren:** And you are optimistic, of course, that you will achieve that.

**Hon. Mr. Auld:** I am always optimistic.

**Mr. Laughren:** Yes. For those of us who live in the Sudbury area, it goes a lot deeper than politics.

**Mr. P. D. Lawlor (Lakeshore):** It sounds almost pollyanna.

**Mr. Laughren:** The quality of the environment there goes much beyond that. I think that is what our opposition seems to forget sometimes.

**Mr. Martel:** May I just ask one point, Madam Chairman? I am absolutely nauseated at the thought of someone like Don Collins, a government appointee, coming into the Sudbury area, who knows full well the problems as he was in this department. He knows full well for years the lack of co-operation this department got at Inco. He comes up there and repeatedly and very subtly makes statements such as, "Well, we have critics at Queen's Park who don't enhance the Sudbury area."

Why doesn't he be honest or why don't you tell him to shut up, one of the two? It is as straightforward as that, because he knows the difficulties you people have had handling Inco and Falconbridge. We have tried to advance it so that we would make an environment that would attract secondary industry and that would attract people, and to have him up there suggesting—

**Madam Chairman:** Mr. Martel, you are out of order at this point.

**Mr. Martel:** I am not out of order.

**Madam Chairman:** Would you please let the floor go back to Mr. Laughren!

**Mr. Martel:** Mr. Laughren yielded to me.

**Mr. Laughren:** Thank you, Madam Chairperson. You are very co-operative. The member for Sudbury East does need a firm hand occasionally.

**Mr. Martel:** Would you let the minister answer?

**Mr. Laughren:** Did the minister not reply?

**Mr. Martel:** He didn't reply.

**Mr. Laughren:** He was out of order. Does he have the right to expect a reply, Madam Chairman?

**Hon. Mr. Auld:** Well, the regional chairman of Sudbury does not work for me and his salary is not paid by these estimates.

**Mr. Martel:** He is a government appointee paid by the government. And he knows what went on in this department, because he was the chairman for a while.

**Madam Chairman:** That's fine, Mr. Martel, now it is time for Mr. Laughren.

**Mr. Martel:** He's beating his gums. He's playing politics. He is not an elected man, he is just an appointee of this government. We don't need his petty politics.



**Mr. Laughren:** Could I ask you a question removed from the International Nickel Co., to change your thinking and thought patterns very quickly here? Where is the legislation now that enforces restrictions on dump burning?

**Hon. Mr. Auld:** It is in one of the parts of the Environmental Protection Act, I think. I just happen to have a copy with me.

**Mr. Laughren:** Is it? To what extent does the municipality have any kind of discretion in this matter? Do they have any at all?

**Hon. Mr. Auld:** There are permits issued for burning. One of the regulations says there is to be no burning without a permit.

**Mr. Laughren:** Who issues the permits for dump burnings?

**Hon. Mr. Auld:** We do.

**Mr. Laughren:** You do. And do you even issue them?

**Hon. Mr. Auld:** Generally, they are pretty well restricted as to time, location and requirements of supervision, and so on.

**Mr. Laughren:** Was there not a court case on that?

**Mr. Martel:** Burnings?

**Hon. Mr. Auld:** We found that in certain circumstances we couldn't ban burning but we could go when burning started and then charge under another section. Mr. Williamson is here, and—Pardon?

**Mr. Macfarlane:** It would be charged under black smoke or causing discomfort to persons, but not for the fact of burning itself. That's the way the courts have found.

**Mr. Laughren:** Oh, I see, so unless it's really causing discomfort or is—

**Mr. Macfarlane:** Or black smoke, sir.

**Mr. Laughren:** Black smoke?

**Mr. Macfarlane:** Density of smoke.

**Mr. Laughren:** Like railroad ties and old tires?

Just a final comment, if I may, Madam Chairperson. The attempts of the minister's officials to clean up the area in Sudbury will, I hope, be accelerated. It's very nice to be able to breathe deeply, and what worries us about the monitoring system—we won't open up that whole bag again—but, when you have

only one monitor and you were reeling off those lists of monitors, it really was sort of facetious—unless you have misinformed the media up there. Whenever they announce the readings over the air, they say, "The Ontario government's only air pollution monitor is located on Ash St.," so that's why most of us assume you only have one monitor.

**Mr. Macfarlane:** The one on Ash St. is the only monitor that is telemetered for the index. The Happy Valley one is equally telemetered, so it is reading every hour and producing the right amount of arithmetic. But, it is by no means the only monitor in the Sudbury area.

**Mr. Laughren:** I see. It's the only one that is available to the public in terms of its readings though?

**Mr. Macfarlane:** It's the only one that is available immediately.

**Mr. Laughren:** Yes.

The other comment of yours that it was monitoring pollution where people lived really is—I'm trying to think of a nicer word than stupid—but it's a silly thing to say, because people live in a whole circle around Sudbury, and whether you are talking about 30,000 people in downtown Sudbury or 20,000 people in Azilda and Chelmsford, really it is playing with figures that is not fair to the people who live in those other communities.

**Hon. Mr. Auld:** What I said was that there were monitors all over and there are various kinds.

**Mr. Laughren:** Well, we're talking about the one that—

**Hon. Mr. Auld:** That gets an hourly reading.

**Mr. Laughren:** Yes. That doesn't make sense.

**Hon. Mr. Auld:** Well, I apologize. I think we are both right.

**Mr. Laughren:** It's accepted. You've disarmed me.

**Hon. Mr. Auld:** I was hoping to.

**Madam Chairman:** Does that complete for you, Mr. Laughren?

**Mr. Laughren:** Yes, thank you, Madam Chairperson.

**Mr. Martel:** It now being 10:30 o'clock, I would suggest we adjourn until tomorrow.

**Madam Chairman:** Well, the House is still sitting, Mr. Martel. Mr. Newman.

**Mr. B. Newman:** Yes, thank you, Madam Chairman. I wanted to ask the minister the situation concerning the monitors in the city of Windsor. How many are there and where are they?

**Mr. Martel:** I thought you had to have a special motion to go past 10:30, don't you?

**Hon. Mr. Auld:** Not when the House is still sitting.

**Mr. Martel:** There must be a motion up there.

**Hon. Mr. Auld:** We have to go up there to vote.

**Mr. Martel:** They must have a motion up there, if they are sitting past 10:30.

**An hon. member:** I think you're right again.

**Mr. Martel:** I don't see a clock in here. Technically I am right, but I'll let it go.

**Hon. Mr. Auld:** Well, let's not get into that argument.

**Mr. Macfarlane** is just digging out the details.

**Mr. B. Newman:** All right, I'll wait for it.

**Mr. Macfarlane:** In Windsor there are three sulphur dioxide measuring devices, one carbon monoxide device, one hydrocarbon, one nitrogen dioxide, one oxides of nitrogen, one fluoride, nine co-efficient of haze—that's finely divided particulate measure, sir—nine high-volume samplers, 23 sulphation candles, 23 dustfall jars, and 14 fluoride candles, plus a number of meteorological instruments.

**Mr. B. Newman:** How many of those are automatic and connected with the air pollution index?

**Mr. Macfarlane:** One is.

**Mr. B. Newman:** Just the one? So, really you have just the one on which you base your reports that come over the air when they state the air pollution for the city of Windsor is six, 14, or whatever it happens to be.

**Mr. Macfarlane:** That is correct, sir. It's compounded the same way as that in Sudbury.

**Mr. B. Newman:** Have you considered increasing the number of monitors, especially those that would be connected to the Toronto

office, so that you would have a more accurate index as to the air pollution in the community? A lot of our pollutants, as you know, come from the American side where, I understand, you do not have a monitor connected with Toronto. Then there is the other area in which the pollutants are very heavy—that is, in the vicinity of the Ford Motor Co. foundry and also Detroit Edison across the river—

**Hon. Mr. Auld:** I think the answer to that is somewhat similar to the answer I gave to the member for Sudbury East about Sudbury. There could be an advantage in having further monitors that are connected by wire to us and would telemeter their results. Again, it's a question of budget.

**Mr. B. Newman:** Mr. Minister, the thing that does disturb me is that—

**Hon. Mr. Auld:** The biggest single problem in Windsor, as I understand it, is Detroit.

**Mr. B. Newman:** Only in some areas of the city. If you lived around the Ford Motor Co. foundry you would think completely differently, Mr. Minister. Why your department hasn't received complaints on them, I don't know. Why your officials wouldn't check on it on a regular basis, I don't know, because—

**Hon. Mr. Auld:** I think some of the stationary equipment is in that area, isn't it, Colin?

**Mr. Macfarlane:** Are you thinking, sir, about the malodours surrounding—

**Mr. B. Newman:** Oh, gosh no. Not only malodours, the particulate matter, the blue haze that you see. The four times that I mentioned in the House are times that I happened to be driving around and the Ford Motor Co. is at the extreme opposite end from where I live and from my riding, and as a result I don't get over there more often than probably twice during the course of a week, and that being only the Saturday and the Sunday. Think of the regular working day, how much pollutant must be pouring out of the stacks at the Ford foundry.

**Hon. Mr. Auld:** I think it might be worthwhile for Colin to explain the basic theory on which our monitoring is done, because in many circumstances the equipment which collects samples and which is checked periodically gives an indication of the general level in the area. In many cases it is so low that unless you have nothing else to do and lots of money to do it with, it indicates that there

isn't need for an hourly monitoring system in the area.

**Mr. B. Newman:** How many of the various devices that he does have—and he mentions all kinds of exotic candles and so forth, which, to the average layman, don't mean a thing—are in the vicinity of the Ford foundry?

**Hon. Mr. Auld:** That's what I thought perhaps Colin, if you could do it in two or three minutes, could refer to—the basic technique that we use and then where there are indications that there may be periodic problems, indicate what we do about that.

**Mr. Macfarlane:** The predominant problem in Ford Motor Co. is finely divided particulate matter and hydrocarbons from the manufacturing of the cores and the use of the sand—

**Mr. B. Newman:** And no odours?

**Mr. Macfarlane:** Oh, yes, and odours.

**Mr. B. Newman:** When you refer to hydrocarbons, do you refer to odours then at that stage?

**Mr. Macfarlane:** It implies odorous hydrocarbons, yes. The predominant problem in the area, as it's been responded to by local people neighbouring the plant, has been on the question—

**Mr. B. Newman:** Have they reported many violations to you?

**Mr. Macfarlane:** Yes, and we've been to court as you know, sir.

**Mr. B. Newman:** Oh, yes, but that's two years ago those violations were based on. So, don't use that at all. Have they reported to you within the last, say, six months many violations at the Ford Motor Co?

**Mr. Macfarlane:** Not very many, from my memory.

**Mr. B. Newman:** Is your man on duty in Windsor?

**Mr. Macfarlane:** Oh, very much so, sir.

**Mr. B. Newman:** Does he ever get around the Ford Motor Co?

**Mr. Macfarlane:** Yes, indeed, sir.

**Mr. B. Newman:** Does he keep his eyes open when he goes around there?

**Mr. Macfarlane:** Yes, he does, sir.

**Mr. B. Newman:** Then, if he does, he's certainly not fulfilling his responsibilities at all. Every time I pass by there the stuff is pouring out of the chimneys. So I don't know what he's doing then, Mr. Minister. As I told you earlier, I don't go there more than twice a week and yet every time I go I see it and I record it in my little black book, knowing that there's no use in bringing it to the attention of your official in there, because nothing is going to be done.

The people have given up. They don't find action at all. Ford carried that case before the courts for two years, and I would assume that anything else that was brought against them, they would likewise prolong. We're not trying to persecute Ford. They've got a foundry pollution problem that, unless technology is not available to solve the problem, they're damned slow in solving.

**Hon. Mr. Auld:** Well, to get to the first point, it would still be very helpful to us when you or anybody else observe something which you think is a violation, if you would let our people know. If you don't, we will never have enough people to follow up everything all the time.

**Mr. B. Newman:** Mr. Minister, you don't realize that people have complained in the past and got no action as a result of the complaints. You know, when you hit your head against a wall, you find you hurt yourself and you stop hitting.

**Madam Chairman:** Mr. Newman, I think that we will have to go upstairs.

**Mr. B. Newman:** Yes, I realize that.

**Mr. Good:** We will not be coming back down tonight?

**Madam Chairman:** I would like a motion for adjournment.

**Mr. Good:** Until what time in the morning?

**Madam Chairman:** We will meet tomorrow after the question period.

**Mr. Good:** Until 1?

**Madam Chairman:** Probably.

The committee adjourned at 10:42 o'clock p.m.



CONTENTS

---

Thursday, May 24, 1973

Water management programme, concluded .....	S-651
Air and land pollution control programme .....	S-667
Adjournment .....	S-684











# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of the Environment**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

---

**Friday, May 25, 1973**

---

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

(Daily index of proceedings appears at back of this issue.)



# LEGISLATIVE ASSEMBLY OF ONTARIO

FRIDAY, MAY 25, 1973

The committee met at 11:05 o'clock, a.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ENVIRONMENT (continued)

**Madam Chairman:** This meeting of the estimates committee will come to order.

On vote 1803:

**Madam Chairman:** The substitutes I have here are Mr. Lawlor for Mr. Martel, Mr. Good for Mr. Worton, Mr. Haggerty for Mr. Riddell.

Mr. Newman was speaking, and you hadn't completed, had you?

**Mr. B. Newman (Windsor-Walkerville):** That is right, Madam Chairman.

**Madam Chairman:** And we were on vote 1803, item 1. Mr. Newman, and then followed by Mr. Good.

**Mr. B. Newman:** Thank you, Madam Chairman. Yesterday when I was making my comments concerning the pollution problem of the Ford Motor Co., Madam Chairman, I made some comments concerning the air control officer in the community. I don't think I was really fair when I made those comments. I think I should be directing my criticisms to the minister and not one of his employees. This is where I will direct them and see that he asks his employee to not necessarily wait for phone calls from residents in the area, but to have his air pollution control officer drive around, or maybe look out of his window if he still lives in that highrise apartment overlooking the Ford foundry.

**Mr. R. Haggerty (Welland South):** Maybe he can't see out of his windows.

**Mr. B. Newman:** Well, that could be it, too. To show you the extent of the slowness with which the Ford Motor Co. has operated, Mr. Minister, I will read an article from the Windsor Star dated Feb. 17, 1970:

Ford Motor Co. Ltd. has completed the final phase of air pollution control in its Windsor foundry.

1970, Mr. Minister.

**Mr. C. J. Macfarlane (Director, Air Management Branch):** I assure you sir, it is anything but complete.

**Mr. B. Newman:** This is the type of stuff that was in the paper at that time. I know, because since then I've been complaining about it in this committee. But you see, Mr. Minister, the company will come along and give the public a snow job, or I should say a dust job instead—

**Hon. J. A. C. Auld (Minister of the Environment):** Perhaps what may have happened—and we'll find out from Colin Macfarlane—in most of these cases it is a programme that has a number of steps in it. Certain things that must be accomplished by a certain time; certain other things that have to be done.

I would imagine, and I don't know the details, that the programme that the foundry is on probably has a number of different parts to it. I assume they have completed some things, but obviously haven't completed them all.

**Mr. B. Newman:** Well, you may be right in your comments, Mr. Minister, but it doesn't say "some portion" of it. It says "the final phase," and this is what I think is wrong. I know they're attempting to—

**Hon. Mr. Auld:** The director indicates that that is not correct.

**Mr. B. Newman:** Yes, and I think the director knows what he is talking about. But I wish some of you people would likewise come around to the plant and just see exactly what is going on when it comes to the pollution and the problem.

You see, Mr. Minister, the prevailing winds are westerly. Your monitors are on the other side. As a result, you never get a real air pollution index for probably the area in the community that is the most heavily polluted by a local industrial polluter. We get enough of the American pollutants, I under-

stand to the extent of 20 tons a day, that float across the border and we don't want them; but we certainly don't want the Ford Motor Co. so slow in its operation. May I ask you, Mr. Minister, through the chairman, at what stage is the Ford Motor Co. in overcoming the problem?

**Mr. Macfarlane:** On several parts of the problem, sir, they have partially completed with the cupolas—only partially though. The higher stacks went up merely to get the pollution out of the immediate vicinity, but this is merely an interim step. By this time next year approximately we expect the cupola programme will be completed. More often the complaints that are deriving from this plant just now are from the odours, malodours, at lower levels. The plant is embarking on a complete change of the processes involved with the malodours at low levels and we expect that this will be complete within a year's time, too. This means a whole change of the procedures inside the plant.

**Mr. B. Newman:** May I say that the malodours are not necessarily at the lower levels? I live as far away from the Ford Motor Co. as one could live and still be in the Windsor-Walkerville riding and the Ford foundry odours come my way, so that it is not necessarily at the lower levels only. The odours completely permeate the community and even last Saturday the smells were very very high and the smell is a phenol smell that is extremely irritating—maybe not to all but it irritates me.

I don't think you have been pressing the company as hard and as vigorously as you possibly should. You know, were Ford Motor Co. a fringe operation I could understand your saying, "Well, let's give them a chance to overcome the problem within time." But they are a fairly profitable operation, they have never had a better year, I think, than they have had this year. If it is money that can solve the problem—and we understand it is money—I can't see why we can't encourage them—or not necessarily encourage them, force them—to clean up the problem earlier. If it is the lack of technology and I doubt it's that—

**Hon. Mr. Auld:** I will just make this general comment. I hold no brief for Ford but in some of these instances you can't walk in and buy something off the shelf. It requires specific design, engineering, construction of the various things or, as Colin says, a change in process, a change in materials that are used. Certainly, from reactions that I have had from various firms in my time in

this job, they don't think that we are giving them too much time.

By and large we try to be reasonable and while we don't expect the impossible we do expect as rapid results as are possible, having regard for the time for engineering, process changes, and so on. I will undertake to ensure that we keep as close a surveillance as we can and deal with those things which we can.

If they are on target with their programme, I am loath to harry them in court and to spend a lot of our time in court; but where there are infractions and people aren't co-operating we do lay charges and by and large we are successful, even if the fines levied don't seem to be high enough. That, of course, is not our decision.

**Mr. B. Newman:** Well, I think you are being fair there, Mr. Minister, and I don't fault you for it. When Ford Motor Co. wanted to convert that building into a foundry, to a high-speed foundry, and it was a \$50 million expenditure, boy, they did it like that. There was no problem at all. Money flowed in from the US and they were able to come along and take care of that. But when it comes to correcting a problem—maybe I don't know at all, but to me doesn't seem that complicated; even doming the thing with a Buckminster Fuller type of dome to contain the pollutants and then have them funnelled through some type of cleaning chamber wouldn't take that long a period of time. We built Ontario Place in a hurry.

**Hon. Mr. Auld:** That really is not in my estimates, but my guess is that if they were doing a \$50 million conversion, they didn't decide to do it today and have it done tomorrow. My guess is that there was a good deal of planning and engineering beforehand.

**Mr. B. Newman:** Right, and remember I read the press report. In 1970 they said they had the job completed. This is 1973!

**Hon. Mr. Auld:** I'm afraid I didn't write the story in the press.

**Mr. B. Newman:** I made mention of that one time before. Now, the Ford Motor Co. is not the only company that we can complain about for causing odours. Hiram Walker also causes odours. A different type of nauseating smell is associated with the fermenting or the cooking of some type of cereal grains.

**Mr. R. G. Eaton (Middlesex South):** Mash.

**Mr. B. Newman:** I've had a series of complaints from people when the winds are coming in from the north.

**Mr. Eaton:** That's a great smell.

**Mr. B. Newman:** Is Hiram Walker under some control project with you people?

**Mr. MacFarlane:** Yes, they are, sir. The background to this is that the smell was associated with that of distilled spirits some years ago. The smell you may have noticed, has changed to that of burnt toast, more or less. This was associated with three new flash dryers put into the plant and we expected these would resolve the problem of the odours. In fact, it just changed the quality of the odours.

So, one of these dryers has now been fitted with a scrubber to remove the odours. We think it has done this, but the odours are being masked by the other two. We'll have a better picture of this in the course of the next few weeks because the two unscrubbed dryers will be taken out of service. If the scrubbed dryer has reduced the odours, then all three will be fitted with the scrubbers.

There is some question in our minds right now as to whether or not we have to add some materials to the scrub solution to suppress the odours. The answer to your question is, yes, very much. We and the company intend to suppress the odour so it doesn't give offence.

**Mr. B. Newman:** The one thing we can credit the Hiram Walker people for is their landscaping in the area. They have certainly made the plant look as if it would be a most welcome place to work in. For that reason, Mr. Minister—

**Hon. Mr. Auld:** There are those who would say that would be the case without the landscaping, but—

**Mr. B. Newman:** They have attractively landscaped the area.

May I ask this last question, Madam Chairman—when is Ford Motor Co. supposed to have its pollution controls completely operative and overcoming the problem? What is their target date?

**Mr. Macfarlane:** Next year. I can't remember the month, sir, but we can get this and pass it to you.

**Mr. B. Newman:** Would you mind having that sent to me, then? Thank you, Madam Chairman.

**Madam Chairman:** Mr. Good is next.

**Mr. E. R. Good (Waterloo North):** I have a few matters on the air item.

First of all, I'd like to say that in my own area the Waterloo air management branch seems to have brought the 14 ferrous foundries in our area into line—I think Canada Valve was the last one. They had a lot of problems, but I think they have been resolved. Things are reasonably well looked after. I don't hear that many complaints from industry any more.

The big problem concerning people now is the fact that no one knows what is the quality of the air in our downtown areas where there is heavy motor vehicle traffic. Perhaps you could sometime give us a brief description, Mr. Minister, of the target dates and the pollution control devices, if you have any inside information on whether or not they are really doing the job they're intended to do and what deadlines are involved in the future. I think 1975 is the final target date for—

**Hon. Mr. Auld:** Very briefly, from the data that we have, our feeling is that if the controls presently required on the 1973 models are continued, and no further emission controls are required, our air quality will continue to improve. It has been since 1968 when the first controls were put on because each year there are more older vehicles dropping out and each year there are more new vehicles with the controls.

The federal government is the one which has the authority to require controls at the point of manufacture. The province can require controls at the point of sale and, as a matter of fact, this province was the first one to do that. The situation isn't clear yet as to what the government of Canada or what the federal Minister of the Environment is going to require. He has indicated previously that he was going to require the same controls on the manufactured vehicle that the US was planning to have.

You may have noticed a couple of weeks ago that the environment protection agency in the United States indicated that it was giving the manufacturers an extra year, from 1975 to 1976, with certain exceptions as far as California is concerned. I can't remember whether it was the federal government which had certain exceptions or whether it was the State of California which also, apparently, has authority for certain controls.

The federal government has indicated that the amount of lead in gasoline is to be reduced—I'm not sure of the date—to 2.5 parts per million or grams per gal.

**Mr. Macfarlane:** To 2.4 grams per gal.



**Mr. W. B. Drowley** (Executive Director, Air and Land Pollution Control Division): Grams per gal.

**Hon. Mr. Auld:** Grams per gal. which will reduce the lead emissions although there are other methods. There are devices called lead traps that you can put on the exhaust system which are quite effective.

Generally speaking, we are satisfied that there is a continued improvement and it's a greater rate of improvement than the rate of the increase in the total number of vehicles. Our feeling is that because of maintenance problems and some concern about additional fuel requirements—poorer performance and the concern about the possible shortage of gasoline—the present levels of controls are satisfactory to Ontario and will be into the 1980s.

**Mr. Haggerty:** You burn twice as much gas to go the same distance with all the pollution controls on. It doesn't make sense, does it? In the sense that you put them on, add them to the cars and then need more gas.

**Hon. Mr. Auld:** A number of the controls presently required, or projected to be, require a good deal of maintenance. If the owner of the vehicle doesn't maintain his engine in proper shape they lose their effectiveness.

**Mr. Haggerty:** You have to have the engine idling faster with these controls on. You are consuming more gas and when you consume more gas you are probably putting more pollution out at the back end of it.

**Hon. Mr. Auld:** That is the other thing, too. If you reduce the amount of pollution per gal. by 10 per cent and reduce the miles per gal. by 10 per cent or 15 per cent, you haven't accomplished a hell of a lot.

**Mr. Haggerty:** That is the whole point.

**Madam Chairman:** Mr. Good has the floor, Mr. Haggerty. You are next.

**Mr. Haggerty:** Yes, all right.

**Mr. Good:** It's okay; we are doing well anyway. In other words, what I was getting at was, there has been no breakthrough in any technology as far as the gas consumption and the increased costs of operation and maintenance are concerned?

**Hon. Mr. Auld:** There have been reports that the Japanese—which is the one which uses the Wankel?

**Mr. Haggerty:** Mazda.

**Mr. Good:** The rotary?

**Hon. Mr. Auld:** Yes; at present it would meet the 1975 standards.

**Mr. D. M. Deacon** (York Centre): I have a car that meets the 1975 standards.

**Mr. Haggerty:** He's got a diesel.

**Hon. Mr. Auld:** Well, drive me home.

**Mr. Deacon:** Pardon?

**Hon. Mr. Auld:** Drive me home.

**Mr. Deacon:** Any time. We could make them in North America if we were smart enough.

**Mr. F. Drea** (Scarborough Centre): We figured it was a foreign-made car.

**Hon. Mr. Auld:** I don't know that economically the—

**Mr. Deacon:** Economically it is great. It costs six cents a gallon to operate that car, all in.

**Hon. Mr. Auld:** Your car?

**Mr. Deacon:** Right.

**Hon. Mr. Auld:** I was going to say that, economically, I don't know that the government of Canada is likely to set a standard that can be met only by foreign-made cars, because the automobile manufacturing industry is a very large one here.

**Mr. Eaton:** Why can't they make them here?

**Mr. Deacon:** Absolutely! Why can't we?

**Mr. Eaton:** The technology is there.

**Hon. Mr. Auld:** Well, it depends on who you talk to.

**Mr. Haggerty:** There is no push from the ministry, though. That is the problem.

**Mr. Deacon:** What about the ministry taking an approach by which we—

**Madam Chairman:** Excuse me, Mr. Deacon. I think Mr. Good has the floor.

**Mr. Deacon:** If I could finish this subject.

**Mr. Good:** Let's work on this subject.

Interjections by hon. members.

**Mr. Deacon:** Do you want to say any more on that?

**Mr. Good:** No, but I invite comments on this one subject. This is the only time we have to discuss the matter of pollution control.

**Madam Chairman:** Each one has an opportunity, Mr. Good, to follow a theme as they choose.

**Mr. Deacon:** Isn't it more logical for us to keep on the same subject and finish it off?

**Madam Chairman:** No, we have one person speak to a subject, Mr. Deacon.

**Mr. Deacon:** It doesn't make it very helpful. It is not very helpful, is it?

**Mr. P. D. Lawlor (Lakeshore):** We do the strangest things.

**Mr. Deacon:** I don't know why we can't as a committee decide that we are going to do it another way.

**Mr. Lawlor:** Let every one pitch in and have a say on certain subjects. That is how we have always done it. We continue to protest.

**Mr. Good:** This is the way we introduced it when we have done the estimates.

**Mr. Eaton:** We could have five people talking about something else concerning it before you get back to it. That's no good.

**Mr. Lawlor:** That's right.

**Hon. Mr. Auld:** The only thing I might suggest—and it is none of my business—is that if it is only one at a time the eyes might light up at Hansard, because I think they may be having a little trouble following everybody.

**Mr. Lawlor:** It would make it a little easier for you, but that is beside the point.

**Mr. H. C. Parrott (Oxford):** I don't think any of us are concerned about whether or not we can interrupt another person. That is common sense. We shouldn't. But I think when we are on the same subject we should be discussing that in its entirety. If we want to interject, then I think if the speaker doesn't wish to relinquish at that time he should say, "I'm sorry, I wish to continue on that point." Before he goes to the rest room the other fellow should have the opportunity to participate.

**Mr. Good:** Traditionally that's the way the estimates have always been done.

**Mr. Parrott:** It is the only logical way to do it.

**Mr. G. Nixon (Dovercourt):** It is the only logical way to do it.

**Mr. Good:** If the subject matter starts to wander on another subject then the speaker who has the floor should certainly let the chairman know that he has. However, I'm easy. I have nothing more as far as car emissions are concerned.

**Mr. Deacon:** Could I say further on cars—

**Mr. Good:** I have to say one thing, but go ahead.

**Mr. Deacon:** What I was going to ask is, whether a new type of energy tax could be worked out, and whether the minister would encourage his government to do so. If cars are of an excessive horsepower for what is required—something over 200 hp is certainly not required—we would slap on a very heavy vehicle licensing fee. It would escalate very quickly over what we might consider to be required, and in that way we discourage the use of high-powered cars and the waste of energy. And we could also lessen the air pollution requirements for cars—under 100 hp, or something of that sort—which are very low-consumption vehicles.

In this way we could encourage the market to move toward vehicles with lower fuel consumption. In doing so we would be lessening the amount of pollution we would be putting into the atmosphere. Pending the development of some new type of engine, in that way we could attack pollution and at the same time actually lessen the waste of energy.

**Hon. Mr. Auld:** We have had some discussions about this in a very preliminary sort of way. As a matter of fact because we haven't been into it deeply, I can't really say. But it certainly sounds an attractive method. It might be effective as sort of a combination of the carrot and stick as you mentioned.

**Mr. Drea:** Mr. Minister, when we talk about these things let's bring them down to reality.

First of all, I really think I can understand Mr. Deacon's concern, and everybody else's concern, but I think we have to be realistic about jurisdictions. Realistically, the provinces and the federal government have got together and are trying to set these things on national standards. I have been on a select committee for some time where we have been looking at certain types of vehicles. We have to go with federal standards, otherwise you balkanize Canada. What you do is to wind up penal-

izing one group of people, when other places don't want it. While I'm not quite in agreement with Mr. Deacon, the mechanism of it—

**Mr. Deacon:** But all the cars aren't driven by people in Ontario.

**Mr. Drea:** But I really think the thrust in this, Mr. Minister, isn't legislation from the Province of Ontario. The thrust, if we are ever going to get into this, is our representations to the federal government. Because certainly, laudable as all of these things may be, if you impose certain standards in the Province of Ontario which are not applicable in the Province of Quebec or the Province of British Columbia, or conversely they do, you balkanize the economics of this country to the extent that you are not really getting any realistic effort.

I think the United States has had a great deal of difficulty inasmuch as California took the plunge and very laudably too, but the acute problem is now in California. They are into the bind about California, having to give an extension, and so forth, because the rest of the industry can't meet the standards, and so on and so forth.

I really think it's fine to say you're concerned, and I think your ministry should be concerned, but surely you know it's just the same pattern as we had with air management. In the beginning we thought the municipality could do it by extending the artificial boundaries of the municipality, but we found out that that didn't work and the province had to take over air management. I think the same thing is true in the particular forms of air pollution that are associated with manufactured products.

It is all right to say we can control a plant by the work your people do in an individual plant, or that we can control the emissions from that plant, because that is a single circumstance; but when you get into vehicles, and so on, we are cornered again by federal policy. Federal policy is that the car that is manufactured in the United States is basically the same car here and the standards—no matter how we try to—

**Mr. Good:** That is right.

**Mr. Drea:** —parade them around—are identical because you don't know where your car is coming from, it can come from Missouri or it can come from Oakville.

Realistically, I think it is fine for us to get up and say we want certain things, but I think the thrust has to be at the Dominion-

provincial level and we have to get some support from other provinces.

**Hon. Mr. Auld:** This is true. In fact, at the meeting of environment ministers in Ottawa two weeks ago there was general agreement on this. The point that I raised there was that if even one province says that the standard is too high or too low—and the province is the one charged with the enforcement, the cost of the enforcement—then I think there has to be general agreement or the programme falls flat because the provinces decide they won't enforce it or they don't have the staff or something.

I think the point that Frank makes is quite valid, where you get the split jurisdiction. Another point he raised had to do with the manufacturing standards of things like air conditioners and lawn mowers which are produced in one province or another but are sold nationally. I think the other provinces who were represented by their ministries agreed that this would be desirable but it depends at the moment on the question of whether they have the jurisdiction to do this, which is something I don't really understand.

The same principle applies whereby if we can control the standard at the point of sale, and all the provinces can do this but there isn't general agreement across the country, the cost of articles is going to go up because the manufacturer is going to have to build three models or five models or something like that.

**Mr. Parrott:** Mr. Minister, what is your net gain in the control? Say the 75 per cent standard at 70 or 68? We are nearly doubling the amount of fuel that is burnt in many instances, which means we have to increase by more than twice, the efficiency of the control to maintain the status quo.

**Hon. Mr. Auld:** I haven't the figures in front of me but I imagine either Mr. Macfarlane or Mr. Drowley has. Can you give us a rundown on what has happened since 1969, Colin?

**Mr. Macfarlane:** Yes. Since the 1969 model, hydrocarbon emissions and carbon monoxide emissions have been progressively reduced until this year when oxides of nitrogen from the tailpipe were also reduced. So the scoreboard right now is that compared with the 1968 cars we have in 1973 models an 85 per cent reduction in hydrocarbons; a 75 per cent reduction in carbon monoxide; and a 50 per cent reduction in nitrogen oxides.



The intention by 1975 is that the carbon monoxide and hydrocarbons will be reduced to something of the order of 96 per cent compared with 1968 models, and the oxides of nitrogen by about 94 per cent.

**Mr. Parrott:** Are you telling me, then, that there will be, for all intents and purposes, no emissions of those two particular gases? You know, four and six per cent is essentially no—

**Mr. Macfarlane:** Substantially very little carbon monoxide.

**Mr. Parrott:** Are there other side gases released, gases of other types that are being emitted in lieu of these? How is this accomplished?

**Mr. Macfarlane:** It's accomplished by two systems of catalytic converters which in 1975—

**Mr. Parrott:** All right, converting what to what?

**Mr. Macfarlane:** It might be better to say just removal of—

**Mr. Parrott:** You can't destroy it completely?

**Mr. Macfarlane:** It's absorbed on the converter, sir, on the catalysts, and discharged as inoffensive gases, carbon dioxide and water vapour.

**Mr. Haggerty:** Is it not toxic, at that state, once it leaves the—what do you call it?—the tail pipe?

**Mr. Macfarlane:** The amount of offensive gases is greatly reduced from—

**Mr. Parrott:** You are changing carbon monoxide to carbon dioxide?

**Mr. Macfarlane:** That's right.

**Mr. Parrott:** By the injection of more oxygen, or the consumption of more oxygen? Is this what causes the increase in the fuel consumption?

**Mr. Macfarlane:** No.

**Mr. Drea:** Another theory shot down.

**Mr. Macfarlane:** Basically, the reason for the increase of consumption is the change of the quality of the gasoline that has to be used. One of the most offensive things that can happen to a catalyst is to have lead approach it, it would poison it, and the catalyst

fail to work, so you have to change the fuel itself and the qualities of the fuel in the refinery before you can use it in the car.

**Mr. Good:** Low lead fuel.

**Mr. Macfarlane:** The lead has to be removed substantially as no lead will be permitted in gasolines used in the 1975-1976 cars and thereon.

**Mr. Parrott:** That means less energy per unit then?

**Mr. Macfarlane:** Yes, basically. You are using a lower octane fuel and a lower compression basis.

**Mr. Parrott:** When you talk about the 96 per cent reduction or the 94 per cent reduction, is that factored in that you are doubling the amount of fuel consumed, or not?

**Mr. Macfarlane:** That is factored in, sir. It's more usually expressed in the trade as to so many grams per mile per car but in broader terms I quoted it in percentage reduction irrespective of the increase of fuel required.

**Mr. Parrott:** There is no doubt whatsoever that you are factoring in the extra amount of fuel?

**Mr. Macfarlane:** Yes.

**Mr. Parrott:** This is a major concern among many people. They are saying, you know, sure we are getting less emissions but we are using double the amount of gas, therefore maybe we are staying even. I don't think that point has been very well made and maybe, Mr. Minister, a little more information in the general press would be of some value in this regard because it's a real sort of gas station concern.

**Hon. Mr. Auld:** There has been a lot of information in the press because—correct me if I am wrong, Colin—there are a number of different engineering opinions on emission controls and I think the maintenance problem is still one that—what you are saying, Colin, is when everything is running properly and is properly maintained?

**Mr. Macfarlane:** This is quite correct, sir. There's some grave misgiving over the ability of the catalytic mufflers, or the catalysts, to survive the lifetime of a car. This is particularly the case in the catalyst which has been designed for the removal of oxides of nitrogen.

**Mr. Parrott:** Is there any legislation either present or pending that will require that these catalysts would be renewed at a given period of time? Does the efficiency deteriorate on a curve basis or is it sort of a complete wear-out? The watch stops or it doesn't or just slows down or doesn't keep time efficiently?

**Hon. Mr. Auld:** I think the brief answer to that is that as the federal government sets new standards for the manufacturer then the provinces by statute, or by regulation in our case, change the regulations to meet those standards. At the moment, our regulations require the 1973 standards, I guess.

**Mr. Macfarlane:** That is correct, sir.

**Hon. Mr. Auld:** It isn't a great problem to make the law, the real problem is to enforce it. How do you know the number of people who would be required. Different people drive different mileages—some vehicles you might only have to inspect twice a year, others you might have to inspect every month. The enforcement end could be a real headache, particularly when it is an add-on kind of thing which, as I understand it, applies to a number of the devices now.

I've read in US publications that the enforcement there is basically that the dealer is not allowed to take these devices off, but the guy at the corner garage can. I don't know how prevalent it is, but when people get poor performance, either in acceleration or in fuel consumption, there is a tendency to say, "We don't really think it's necessary," and they take it off.

I've also read that the manufacturers are incorporating some of these devices into a part of the vehicle so that you can't take the device off. All I can say is that there appear to be a lot of problems.

**Mr. Parrott:** This means at least an annual inspection of the vehicle, doesn't it, with the implications involved there?

**Mr. Good:** We've always been talking about that from the safety standpoint—

**Mr. Parrott:** For years as well.

**Mr. Good:** Eventually this is—

**Mr. Parrott:** But there is no point in having these standards unless, as you said, there is some method of enforcement.

**Hon. Mr. Auld:** And furthermore, I think the feeling on the part of the vast majority of the driving public is that they are neces-

sary and consequently the person wants to keep his machine in shape. I just don't know—with 2½ million vehicles—

**Mr. Drea:** But there's something else in all this, too, Mr. Minister. I get the feeling that our hands are tied. I'm not trying to demean your position or the position of the province and I'm not talking about the abilities of the federal government whatsoever, but realistically, we are not in control of our own destiny in this situation. We have, for reasons best known at the time, entered into a continental market on automobiles, automobile production, automobile standards and everything else.

One of the prices we are paying for this is that when it comes to whatever major problems are connected with the use of these vehicles we are not in control of the situation. We are absolutely dependent upon what the United States does. For instance, if the United States was tomorrow to abandon any attempt to curb emissions from automobiles—and I suggest to you they may very well do this because there's an immense lobby, in both the international unions and the international companies—no matter how well-intentioned you were, no matter what kind of a staff you had here in Ontario, and the same with the federal government, we, too, would have to abandon it. Because the price we would have to pay is to come back into a national market and with the severe implications this has.

We are absolutely controlled. It turns out that at the moment we are fortunate. California has got a very acute situation and it benefits us but, as I say to you, if they stop tomorrow just like that—

**An hon. member:** Yes, but that's irrelevant here.

**Mr. Drea:** We can talk here for 20 years, and there won't be a single practical improvement that can be made in this province, or in this country.

**Mr. Haggerty:** The environmentalists wouldn't allow that.

**Mr. Drea:** We shall see.

**Mr. Good:** We can be thankful that they have started and they have been ahead of us. We undoubtedly have to go on.

**Mr. Drea:** Right.

**Madam Chairman:** Does Mr. Wardle want to speak on this?



**Mr. T. A. Wardle** (Beaches-Woodbine): On another matter, Madam Chairman.

**Mr. Good:** Turning from that—and I think we've had perhaps the best discussion on car emissions that we've ever had on the estimates—is the matter of Ontario Hydro and its emissions, particularly here in Toronto with their Hearn and Lakeview plants. First of all, I want to ask a question to which I should know the answer—what are the components of the API? What is it? I've had this explained before.

**Mr. Macfarlane:** Two components are sulphur dioxide and airborne particulate matter.

**Mr. Good:** Particulates and sulphur dioxide. Is any move being made to monitor other components into the API?

**Mr. Macfarlane:** We can't include other components and make it very meaningful. Maybe a way of explaining this is that the World Health Organization has chosen the same two components for looking at the effect of air pollution on large communities. They have looked at sulphur dioxide and particulate matter, too.

**Hon. Mr. Auld:** Because of the discussion last night I am going to write to all the members to see how many would be interested in an afternoon course down at the lab on how this works—what we do with the various monitors, see the equipment and get our people to explain to all of us just how it works. Perhaps not everybody will be interested, but I detect a fair number who would be. It's a pretty technical matter, but I think that we can get an explanation that—

**Mr. Good:** An API could be 32 over 6 and the 32 could be particulates and chlorides registration, and 6 or 2, or whatever it was, could be from carbon monoxide, or something that would particularly indicate automobile emissions which concern a great many people.

**Hon. Mr. Auld:** For instance, in the lead field the air quality standard for everybody is, I think, 25 parts per million. There was some question, too, about people who worked as taxi drivers, and policemen in certain areas. There are two standards. The standard for everybody takes into consideration a very high safety factor because of elderly people with asthma, and babies, and it's based on an exposure over 24 hours. As far as individuals in good health are concerned, aged from 18 to 65, the health standard is 150

parts per million for an eight-hour exposure, isn't it?

**Mr. Macfarlane:** Micrograms.

**Hon. Mr. Auld:** Per microgram, yes. It's 25 as compared to 150. It took me a little while to get that through my head.

In some of these measurements you're looking at exposure over a 24-hour period as opposed to a high rate of exposure in a short period.

**Mr. Good:** The reason I am talking about Ontario Hydro with their Lakeview and Hearn generating plants, is that up until now the route taken has been if they are responsible for excessive contamination of the air they're notified when their API gets to that point and they cut back by converting. In Hearn they've got what?—there are three out of the five—

**Hon. Mr. Auld:** On gas?

**Mr. Good:** —have gone to gas and at Lakeview I think they are starting on the process of converting as well.

**Hon. Mr. Auld:** They were going to convert to oil and coal and they have low sulphur coal. They have two piles of coal and depending on—

**Mr. Good:** But the main point I want to make is that the major input into the air pollution problem here in downtown Toronto is Ontario Hydro. I have been told—and presumably people I know, know what they are talking about—that in the long run coal will have to be the fuel to be used. It will have to be used in the future to produce electricity. Our resources of energy in the gas and oil fields are definitely limited, but the world supply of coal is much greater and can be utilized.

**An hon. member:** Not all of it is low sulphur coal.

**Hon. Mr. Auld:** The supply of low sulphur coal is being depleted at a very rapid rate because in the States, as well as here, the pressure is on utilities to reduce their—

**Mr. Good:** Exactly the point—you have helped me make my point. The supply of low sulphur coal is diminishing very quickly. We have exploited our water power to its fullest; it has gone to generate electricity. It seems that as a society we are depending more and more on electricity—although I'm glad to see Hydro's last directive to the local people has



been to cut off their ads to promote electricity.

But we get back to the point where coal is going to have to be the fuel. The future of nuclear power is still iffy as to what its effect will be in the various areas and, while it has great potential, it's still at the point where it can only be used to the extent that we learn more about it and what its effect will be.

I would like to know what, if any—in fact I am told that very little research, or very little concern is being shown by Ontario Hydro—efforts Hydro is taking to try to develop ways of burning coal, whether it be the medium, high or low sulphur coal, in a more efficient manner so that there is better combustion.

I'm told the types of boilers being made—and some of them are made in Galt, in our own area—are not being designed in a very much different way from the way they have been for the last number of years and nothing is being done in the whole field of research in trying to burn coal more efficiently with less pollution.

**Hon. Mr. Auld:** Hydro, without going into the details, which I don't have in front of me, have been working for four or five years. They have done pilot projects. They've done one with lime scrubbing on the equivalent of what—10 megawatts?

**Mr. Drowley:** That's right.

**Hon. Mr. Auld:** They think it works. They are now proposing—and in fact I have spoken and written to the federal minister about joining us—about a \$10 million expenditure to put a working scrubber on one of the 400-megawatt generators at Lakeview. So far, I have an acknowledgement saying it's a good idea, but Mr. Davis doesn't know whether he has any money at the moment.

**Mr. Good:** What about the method of combustion, the method of burning? I have been told there is a lot of Japanese research on this.

**Hon. Mr. Auld:** I'm told by Hydro that they are vitally interested in this, because it has a very large economic effect. If they can get another 10 per cent efficiency out of the coal they're burning they're very interested in it.

**Mr. Good:** I would just close on that subject by saying that I hope that the ministry is not only interested in just, when things get bad, converting the furnace from coal to oil, but that they see that everything is being done and technical work being done on trying

to develop that. From what I have read I sincerely believe that coal is going to have to be the fuel that we're going to have to look to—something which I wouldn't have thought five years ago.

**Hon. Mr. Auld:** Hydro have contracted for, I've forgotten how many million tons of—

**Mr. Good:** In Nanticoke.

**Hon. Mr. Auld:** —two per cent sulphur coal, which they think will last them until 1990 something. But Hydro's view is, because of the great success of the nuclear plant at Lakeview—

**Mr. Good:** Pickering.

**Hon. Mr. Auld:** —or Pickering, which is performing far better than they had—

**Mr. Good:** Expected?

**Hon. Mr. Auld:** Well, certainly better than they had said publicly they thought it would work—that their next plan schedule is for a fossil-fuel plant, but after that, depending on who controls the uranium, to a degree, their interest is in nuclear plants.

Surprisingly enough, I'm told, and I think I have it correctly, that a nuclear plant can be more flexible in terms of load than a fossil-fuel plant. In other words, by turning a handle you can reduce your output by 10 or 15 per cent; you don't have to shut something right down. The other thing about the Canadian nuclear system compared to the US—in other words, the heavy water instead of the enriched uranium programme or system—is that there is nothing like the problem in dealing with the spent uranium, trying to put it someplace where it won't be bothersome.

**Mr. Good:** At Nanticoke it's coal fired, isn't it?

**Mr. Haggerty:** Fossil fuel, yes.

**Mr. Good:** It's all coal at Nanticoke. And Lennox is going to be, gas is it, or what is the fuel going to be?

**Hon. Mr. Auld:** At where?

**Mr. Good:** The new Lennox.

**Hon. Mr. Auld:** Lennox, oil I think.

**Mr. Good:** Oil. Oil, yes.

**Hon. Mr. Auld:** We'll send you a review. There are a great number of projects going on in the States for finding ways to burn

high sulphur coal, because there are a lot of problems, more in the States than here.

**Mr. Good:** Just one more item under air management, Madam Chairman, and that concerns Toronto Refiners and Smelters. That was where you had the lead problem out here by Niagara St., even though you put an order on them, I believe, to confine their operation, or to move it to the other end of their property.

**Hon. Mr. Auld:** No, we put a stop order on them for the outside crushing of batteries. Then they produced a programme to do a number of things; pave the yard, enclose the operation, put filters on the fans and stuff like that, to prevent loss of the large particles of lead, which apparently had been spreading around for some time, and stop that emission.

**Mr. Good:** Dr. Potter's report says that he has found evidence of increased lead absorption in the people living on Niagara St., but no evidence of the effect or complaints of sickness attributed to the lead have been received. I made notes on a report from the United States where increased absorption of lead, while showing no evidence of sickness or ill effect at the time, states that exposure over a long period can result in brain damage, impaired muscular function and other problems. What about the whole aspect of allowing such an operation in a municipality, and the safety of the men involved in working there?

**Hon. Mr. Auld:** Here again, it's a matter of degree. Dr. Fitch is here. Max, you've been involved in the Niagara St. problem. Could you come up so we can get it on the mike?

Just while Dr. Fitch is coming forward, we have set up a medical committee, including—I've forgotten who they are—a doctor from the Hospital for Sick Children and people from the university, who are constantly checking all the people in the area. In layman's terms there is evidence of increased lead absorption, but not to any hazardous degree. It would appear that the problem is not from the stack or the chimney in the plant, but from the open crushing operations that have gone on for a long time and the particulate that's flown around in the air when somebody smashed a battery. It got on the lawn or on the street, or on somebody's shoes and on some workmen there.

There was one case that I recall where the family have moved away, so we haven't been able to track them down. Again in layman's terms, somebody works there and he comes home with his overalls on and his

kid hops on his knee and puts his hands on his clothes, then licks his finger. There was some evidence to indicate, in one family's case, that that might have been the source of the lead, not the stuff coming out of the chimney, that's filtered and I think it's down to 99 per cent—

**Mr. Macfarlane:** Better than 99 per cent.

**Hon. Mr. Auld:** —better than 99 per cent removed.

**Mr. Good:** So, all you have done now is moved the outside crushing operation under cover, is that right?

**Mr. Macfarlane:** What's happened is that right now the outside crushing operation has been entirely stopped, sir. But the intentions are that if the programme goes ahead, the crushing will be moved and controlled with many other parts of the—

**Mr. Good:** Moved out of the area, or?—

**Mr. Macfarlane:** No, moved away from the homes close by. There are some homes in very close proximity.

**Hon. Mr. Auld:** Max, I wonder if you could answer the question about the effect of lead on health?

**Dr. M. Fitch** (Environmental Health Effects Service, Ministry of Health): It's been known for a long time, of course, that there is a hazard to people who work with lead. The Ministry of Labour keeps a close eye on people who work in the lead industry. As far as the workers are concerned, they have periodic examinations. This is a separate problem, of course, from the neighbourhood one.

The point that you raised, sir, about studies in the United States; they are all related to a particular situation where people are living in slum areas which have been painted over and over again in the past with paints containing large quantities of lead. In surveys done in those areas, a large number of the children are found to have high lead levels and it is believed that they get them by eating flaked paint. This has been true in studies in Chicago and Boston and New York.

We haven't really explored this as thoroughly as we might here but there is no place in Canada where this same situation is known to exist. All those studies that refer to children having suspected brain damage as a result of exposure show it is caused by fairly high levels of lead in their

blood over a long period of time during the very early years when a child's brain and nervous system are developing.

**Mr. Lawlor:** I know this caused the decline and fall of the Roman Empire. They used to have their wine in barrels which were leaded. They drank it and they all became demented. I don't think that is happening to the Tory government at the moment. The secretary of Clare Booth Luce picked that up from a ceiling in Paris and was unable to complete her last play. Such is my contribution.

**Mr. Good:** Madam Chairman, that is all I have on air. Are we going to deal with noise separately under this same item?

**Mr. Wardle:** Could I ask a question on this, too, Madam Chairman. It is on the matter of the Hearn plant. Several years ago the low stacks were replaced by one high stack and I wonder if the minister has any figures to show the improvement in that particular area since that change was made and with the use of gas rather than coal in that particular installation?

**Mr. Macfarlane:** Yes, I think we have the data here if I may search for it for a moment, sir.

**Mr. Wardle:** I would be happy to get it at a later time, as long as I had it.

**Hon. Mr. Auld:** We will send it to you.

**Mr. Wardle:** Very good. Now could I bring up another matter, the matter of the Ashbridge's Bay sewage disposal plant?

**Mr. Deacon:** Could we say something further about the Hearn plant?

**Hon. Mr. Auld:** Sure.

**Mr. Deacon:** In connection with the Hearn plant, I am concerned about the future costs, at the escalation in costs which is going to result from a shortage of natural gas or as the cost of natural gas increases. I wonder what the ministry, with Ontario Hydro, is doing to develop a better way of removing particulate fallout from the Hearn or any other fossil fuel plants. We are certainly going to be using more coal in the future and we have got to find ways of using it without causing this particulate fallout.

**Hon. Mr. Auld:** I think it is fair to say that the technology for removing particulates is a lot further advanced than, say, sulphur dioxide removal. It is really a matter of cost

and it can be very expensive. Mr. Drowley, do you want to say anything specifically about what we have been doing with Hydro and Hearn?

**Mr. Drowley:** I think, Mr. Minister, as far as the removal of particulates is concerned the only known method right now that is sufficient is the electrostatic precipitator and you can get it up to about 99.4 per cent. I think the developments which are coming down, and to which the minister referred earlier in dealing with sulphur dioxide removal, are also incorporating particulate removal.

One of the ones which we are following very closely—and I know the Hydro is—is the hydrogenation of coal to produce a gas which is particulate-free and has quite a low ash residual which they can burn on the grates at the same time. This is utilizing the higher sulphur coals. These are the things which I think you are going to see come in. To get back somewhat, to Mr. Good's part, methods of firing, too, are being incorporated in the same studies and they are using fluidized beds and so on to really cut down on particulate emissions. These, I would suggest to you, sir, are five to 10 years away.

**Mr. Deacon:** Has this a lot to do with the temperature of the emissions, the degree to which you are able to remove the sulphur dioxide as well as the particulate? Do you recover the heat from those stacks prior to using electrostatic or other type of removal?

**Mr. Drowley:** Temperature doesn't have too much effect on the particulate removal but it certainly would on the sulphur dioxide.

**Mr. Deacon:** I understood that was quite important to both; that you had to try to get the temperature down—

**Mr. Drowley:** Right.

**Mr. Deacon:** —which is really getting a more efficient utilization of the heat produced by the fossil fuel. I was hoping that we were doing something in that direction. Is there a major investment by the province going into that?

**Hon. Mr. Auld:** Hydro are doing this themselves. I believe there is an association of utilities and Hydro is involved with US utilities, and various ones are pursuing different courses. In other words they are trying a number of things and they are trying not to duplicate each other's efforts.



**Mr. Deacon:** Right. But in view of the vital—

**Hon. Mr. Auld:** They contribute to a central pool for the funding.

**Mr. Deacon:** In view of the increasingly important role that we can expect from Hydro in the future in producing energy from fossil fuels would it not be worth the minister's own department becoming involved in this programme with Hydro to ensure that every possible avenue is being pursued? Ten years is a long time away.

**Hon. Mr. Auld:** There is a very close liaison. I would have to say in all honesty that we have many demands on our budget and, basically, this is Hydro's problem. If you are talking about Hydro being in the same position as any other manufacturer or producer then, just as we don't subsidize Ford for the solution to their problems, so far we have not subsidized Hydro.

**Mr. Deacon:** In the same way, I've felt for some time that actually we should be working on, you might say, a subsidy programme or, I think, a co-operative programme with industry, whether it be Hydro, which uses fossil fuel for producing electrical energy, or whether it is other plants—of which there are many—which use these fossil fuels for producing their own direct requirements and needs. In all cases, we should be co-ordinating a programme by putting in some input in the way of research funds ourselves and ensuring there is a fully aggressive co-ordinated programme taking place.

**Hon. Mr. Auld:** Where there is a problem of a general nature, like sulphur dioxide, I don't disagree with you. That is one of the reasons I have been consulting with Mr. Davis in Ottawa about Hydro's \$10-million project, because the results of that will be applicable to other than steam generating plants.

**Mr. Deacon:** I don't think it is sufficient for the minister to say to Hydro or to anyone else, "You've got to meet such-and-such a standard by such-and-such a time." I think we have to take a role of co-operating with them in finding a solution to the problem. This would require some contribution financially as well as, certainly in time, a role of responsibility in pushing our programmes along.

**Mr. Wardle:** Madam Chairman, Mr. Minister, on the matter of the Ashbridge's Bay sewage disposal plant. This plant is located

in Riverdale riding but unfortunately the prevailing winds carry the smell over to Beaches-Woodbine. I don't know whether the minister and his experts could solve that problem and have the prevailing winds go the other way? I often think if that stench went over the downtown area of Toronto we might get more action.

I do know the ministry has made progress over the past few months at Ashbridge's Bay. I would like the minister to tell me just what has been done over the past year in solving the problem at that plant and whether the proposed covering of the aerating tanks there could be a possible solution to the problem?

**Hon. Mr. Auld:** That's their proposal—to cover the tanks, then technically scrub the gas that comes out and then incinerate the solids they get out of it.

**Mr. Wardle:** Mr. Minister, the people down there, of course, are still concerned about—

**Hon. Mr. Auld:** The same thing applies to the Humber area plant as well.

**Mr. Wardle:** The people down there are still very concerned about that problem and the problem comes particularly, as you know, in hot, humid weather when the air is kept close to the ground. I would like to have some assurance that the ministry is working on the problem, and the people living in that area may have hope that a solution will be found. We have had the problem now for 50 years.

**Hon. Mr. Auld:** We haven't got the date. There is a date set to have this operation completed, but unfortunately—

**Mr. Drowley:** Sometime in 1974, I think.

**Hon. Mr. Auld:** Sometime in 1974; and we will get you the date.

**Mr. Wardle:** I wonder, Mr. Minister, if you will be kind enough to bring me up to date on the present problems there and what your ministry is doing about it; what your hopes are. And one final question: Have you had more complaints this year than you have had before, or do you feel the people down there are generally satisfied that the ministry is taking appropriate action?

**Hon. Mr. Auld:** Well, I hope they are.

**Mr. Wardle:** I hope so, too.

**Mr. Macfarlane:** I think we have had fewer complaints this year, sir; but I think this is

probably due to the expectation that the covering-in of the plant will resolve the problem very largely.

**Mr. Wardle:** Well, thanks very much; I will be glad to have that as soon as it is available.

**Madam Chairman:** Do you want to raise a question, Mr. Drea?

**Mr. Drea:** Yes, I did.

**Mr. Wardle:** I know.

**Mr. Drea:** Sorry.

**Mr. Wardle:** Do you want to raise it?

My other question was one that Mr. Drea brought to my attention. The matter of the byproducts from that plant. Are they being put to some useful purpose? I do know that the—

**Hon. Mr. Auld:** The sludge?

**Mr. Wardle:** Yes.

**Hon. Mr. Auld:** I assume they are incinerating, aren't they? We are back to the water and sewage vote and my water and sewage fellows are back working. I think Metro incinerates most of its sludge.

**Mr. Wardle:** Yes.

**Mr. Haggerty:** Can we treat it under air pollution?

**Hon. Mr. Auld:** No. I have forgotten how many million dollars it cost but they have almost completed a very large programme at the Commissioners St. incinerator to meet all the air quality standards. There are still some other ones that are being phased out. So, there are some that are still not in conformity, but will be phased out.

**Mr. N. G. Leluk (Humber):** They are building that now.

**Mr. Wardle:** If I could have the Commissioners St. incinerator information, too, at the same time.

**Mr. Drea:** Yes. The question I wanted to ask Mr. Minister, and I am glad that Mr. Good is here because he certainly raised it last year, and it really involves all of this. If you will recall, last year, at the time of your estimates there was the difficulty with the Johns-Manville plant in Highland Creek, or at the foot of Lawson Rd., or whatever you want to call it.

**Mr. Wardle:** Port Union.

**Mr. Drea:** Port Union—and there was the question of residential construction right next to it. It really wasn't a problem for Johns-Manville, it was minding its own business and conforming. It was the question of the intrusion of residential units into an area that had been designated for industry.

**Mr. Good:** OHC, wasn't it?

**Mr. Drea:** Yes. I don't like to appear as anti-OHC all the time. I was trying to leave it out for once.

**Mr. Haggerty:** Credit where credit is due.

**Mr. Good:** It doesn't matter who it was.

**Mr. Drea:** I don't think it really matters. The thing that I thought was of great significance last year, Mr. Minister—and so did Mr. Good—was the fact that at that time your ministry was never advised; or it wasn't mandatory that your ministry be advised of these alterations in an area which did affect air management.

I am just wondering a year later, if there has been anything done in this regard under the Planning Act, or anything so that your people have to be advised, in much the same way as the water management branch has to be advised when a new development is going in; other people under the Planning Act have to give their okay before the thing occurs.

I just wondered in the light of your expanding role in environmental controls if anything has happened in the past 12 months on this situation.

**Hon. Mr. Auld:** Perhaps I can read the member one paragraph, which sort of sums it up:

Land Use Planning: The branch will place a much greater emphasis on land use planning. The projected requirements for 1973-1974, including formal input by the branch into all official plans and amendments, subdivisions and OMB appeals, are expected to increase threefold.

**Mr. Drea:** Well, does that mean now that you have to be informed before these situations occur, or that you are in a position of reacting to them when they do occur?

**Hon. Mr. Auld:** We are to be informed through TEIGA.

**Mr. Drea:** I see.

**Hon. Mr. Auld:** This is one of the great problems. We set certain standards for a plant

and we base it to a significant degree on the use of the land in the area.

**Mr. Drea:** That is right.

**Hon. Mr. Auld:** And if somebody changes the use, then—

**Mr. Drea:** Your standards may no longer be applicable. And also, the fact of the matter is that it becomes very unfair to the industry which has met the standards in the beginning, and suddenly the rules of the game are changed and the entire load falls upon the industry.

Well, this leads me to the second thing; just so that I understand it correctly. When a residential project, such as the one at Port Union, is going to be built in proximity to industrial facilities, must your ministry be told about it before it goes through the planning board of the municipality?

**Hon. Mr. Auld:** If there is to be any amendment to the official plan or any change in the zoning.

**Mr. Drea:** How did we do that? How did we accomplish that—by regulation?

**Hon. Mr. Auld:** Really, administratively by an agreement with TEIGA, which has to—

**Mr. Drea:** But they have done it by regulation.

**Hon. Mr. Auld:** The government agency that gets all these proposals.

**Mr. Drea:** They have done that by regulation. There is no legislation.

**Hon. Mr. Auld:** No, really by administrative arrangement.

**Mr. Drea:** All right. Now, then, just one other area in this. In my particular area—and I know that technically this could come under noise, but I think in the light of the emissions we were discussing a few minutes ago, I think it is just as apt under this—you have now given instructions, and I presume they apply only to Scarborough and perhaps to part of Pickering, that there is to be no residential construction within 1,600 feet of the fence-line of Highway 401.

**Hon. Mr. Auld:** No. What we have said, in essence, was that to avoid noise problems for single family dwellings, it is wise to keep them about 1,600 feet from a heavily travelled road. Again, that is sort of a general suggestion. We have no authority to prevent this and it really is a matter for the municipality.

There are various things you can do. For instance, if you are going to have a complete development, with commercial areas and so on, from the noise point of view it is best to put those commercial buildings close to the highway where you expect a higher ambient noise level.

**Mr. Haggerty:** That is not the policy of MTC, though. It doesn't care what construction is along the highways.

**Hon. Mr. Auld:** Well, let's not get into that just for a second.

And if you want residences, it is better to have apartment buildings, where (a) people don't spend as much time outside; and (b) you can sound-proof the building effectively. But at the present time there is no regulation of ours that says you can't build a single-family dwelling closer than 1,600 feet to an expressway.

**Mr. Drea:** So, all you have done in that particular area is to send out an informal guideline—

**Hon. Mr. Auld:** Well, actually what happened is that we—

**Mr. Drea:** Mind you, I am sorry you have, because they are taking it as the bible out in my area, and I think it is a very good idea.

**Hon. Mr. Auld:** We were invited to a meeting with the area planning board. Dr. Tempelmeyer, I think, was the one who was involved.

I wonder, is there anything else—

**Mr. Drea:** I can leave this area until we come into noise, Mr. Minister.

**Mr. Deacon:** What is TEIGA?

**Hon. Mr. Auld:** Treasury, Economics and Intergovernmental Affairs. Maybe we will just hang on a second here.

**Mr. Drea:** Madam Chairman, just one last aspect of this. Now that you have control of the air around industrial sites in terms of future construction, what would happen for instance—what really would happen if somebody proceeded ahead? Do you have the power to stop them?

**Hon. Mr. Auld:** No.

**Mr. Haggerty:** No power at all?

**Hon. Mr. Auld:** The only agency at the present time who would have power to stop them would be TEIGA and they could say,



"You can't change the zoning." Our input is one of many.

**Mr. Drea:** Oh, yes, I know that, but I am talking about in terms of TEIGA. I know that you can't stop it yourself; but in terms of what can be done your input into TEIGA would be essentially the same as, shall we say, a school board that says you cannot build in an area because there is no school and there is not going to be any school for quite some time. That usually puts the damper on it for good. The application of this concerning the environment would fit into that same type of criteria, would it?

**Hon. Mr. Auld:** Right.

**Mr. Drea:** Well, we have really come a long way in a year.

**Hon. Mr. Auld:** Yes, our only problem may be the volume of work and the possible delays that will be caused.

**Mr. Good:** Somebody asked the question of the authority to do—

**Hon. Mr. Auld:** No, it's another agency. It may to some degree delay some development.

**Mr. Drea:** One last question on general air management, coming back to emissions and certain things, Mr. Minister. Last year I was fascinated when most radio stations in Toronto gave the weather, they gave the pollution index and for the first couple of years they were doing this, it constantly fascinated me as to why Toronto's pollution index was higher than that of Hamilton. There are certain industries in Hamilton and the measurements, no matter—

**Mr. Haggerty:** They probably took it at Toronto Island.

**Mr. Drea:** No, but it fascinated me as to how Toronto's index would be higher than Hamilton's. It seems to me that during the last year, particularly in the last five or six months, the readings in the Toronto area were remarkably low because generally they were three, four, five and six, whereas a year or so ago—maybe I am off by a few months—but certainly in 1971 and 1972, it would seem to the casual observer, to the layman, that the readings were around in the twenties most of the time, except when you got a very flukey day when it was virtually zero because of a very strong west wind. But it now seems this year that that reading is down to six; you don't even have many sevens any more, it is between three, four, five and six.

What I am trying to get at is does this reduction come from the improved emission controls on automobiles or does the bulk of it come from the very drastic restrictions and the controls we have put on industry as to what pollutants can come out of their plants?

**Hon. Mr. Auld:** Well, it would be industry because the major components of the index, as Mr. Macfarlane mentioned a while ago, are sulphur dioxide particulates. In ball park terms, during the last five or six years, through the efforts of the ministry and the air management branch—and I have forgotten how many millions of dollars of investment by industry—it has been cut to about half. We now have an air model, and I don't want to get into how it works today, which can really predict, if somebody wants to build a plant someplace, the effect of the emissions of that plant, depending on the degree of control we have on the overall picture.

**Mr. Drea:** But this pollution barometer that they are using now doesn't take into much account the emissions from automobiles, does it?

**Hon. Mr. Auld:** No, it doesn't.

**Mr. Good:** Mr. Minister, is the monitoring still done on the Hospital for Sick Children's roof?

**Hon. Mr. Auld:** Yes.

**Mr. Drea:** So really, the reduction has been accomplished in just straight industrial and residential emissions.

**Mr. Good:** In the downtown area.

**Hon. Mr. Auld:** And I think it is pretty significant.

**Mr. Wardle:** Madam Chairman, if I could pose a similar problem to the minister, down by Eastern Ave., between Logan and Pape, there is the abandoned Consumers' Gas plant and I know the city council had discussed this area, which is now industrial, for possible future residential housing. Would the minister be in a position to approve any residential housing in that area, having in mind the bakery and the soap factory and the various industries still operating in that area?

**Hon. Mr. Auld:** I am not aware of any proposed plans. What is it presently zoned as?

**Mr. Wardle:** It is zoned industrial, I understand. I don't think there are any plans, but it has been talked about as a possible resi-

dential area—a few hundred acres down there that I think could be available. I am just wondering if you have authority to stop all residential development within 50 or 100 feet.

**Hon. Mr. Auld:** No. As I mentioned a while ago, if it's a question of changing zoning, we would have our input and our recommendations to Treasury, Economics and Intergovernmental Affairs and it would be part of their decision-making process as to what the decision would be.

**Mr. Wardle:** Yes, the abandoned factory is still sitting there. I am just wondering if the effect may be that the land is closed for further industrial use on account of the fact that there is a lot of residential area to the north and also there is now no place where factories could be built in that area.

**Mr. Deacon:** Wouldn't you like to have it built up for housing?

**Mr. Wardle:** I think it would be very desirable.

**Hon. Mr. Auld:** We have never had any inquiry from anybody about our views.

**Mr. Wardle:** It appears to me that the land is frozen now and maybe your department could look into the possibility of—

**Hon. Mr. Auld:** We are not in the zoning business, really. We have lots to do without getting into housing.

**Mr. Wardle:** I know, but I think we should know in advance just what the policy of the minister would be in a situation of that kind.

**Mr. Good:** You won't know until someone wants to change it.

**Hon. Mr. Auld:** Well, I would hesitate to put out people to work on some sort of speculation. If there is some plan to make a change, we would be consulted. But while it might be desirable, we just don't have the—

**Mr. Wardle:** I see. You would have to wait until an application came forward and then you would give the matter consideration

**Mr. Drea:** Mr. Minister, on that point, would it be fair to say that your ministry would be slowly building up an inventory of air management in the province on the basis of your new role in this? I realize at the moment you are reacting. There has to be an application for change. But certainly you would have

to study a rather intensive area to allow rezoning, say, one square block. Without knowing any of the technical details, I think you would do a very careful study for probably a square mile around. But would you be slowly building up an inventory of air management and air control uses across the province?

**Hon. Mr. Auld:** I think I understand the question and I would say we have because over the years we have collected a lot of data in connection with controlling emissions in all areas and basically on all industry in the province. Every significant source of air pollutants is on a programme but while somebody will discover a new pollutant one of these days, no doubt. This happens. When you get the big ones out of the way, the small ones sometimes appear and, no doubt, there will be further programmes.

I think it is fair to say that air management has accomplished a great deal in a relatively short time, and with, generally speaking, co-operation on the part of industry. This is interesting because it is an investment that doesn't pay any financial dividends and, in fact, generally increases operating costs because there is the capital cost of the equipment and the maintenance cost of it.

**Mr. Drea:** Mr. Minister, I wonder if you would do me a favour on the weekend. I don't know how you go home.

**Hon. Mr. Auld:** I am flying home.

**Mr. Drea:** You are flying.

**Hon. Mr. Auld:** At 1:15 to get to the Toniata school to speak to the schoolchildren.

**Mr. Drea:** Okay. Maybe when you come back in on Monday, I wonder if you could have your driver take you down to that new installation by the Commissioners St. incinerator. Mr. Minister, it fascinates me. That concrete stack—and I come by it all the time—is not finished yet. The other two conventional stacks of that incinerator are still operating. The entire one-third of the top of that unfinished concrete stack, just from emissions from those existing stacks, is the filthiest, blackest—it is just covered with soot—and yet that thing is not even finished, and has not been there very long.

It seems to me that perhaps we may have been a little bit too lenient with—is it the city of Toronto or Metro—

**Mr. Wardle:** Metro.

**Mr. Drea:** Metro. If there is that much emission—and mind you I suppose this is only 10 feet away from the old stack and the new stack would be to the north and to the east—if there is that much blowing to discolour and coat that concrete in so short a time, I wonder what the real impact has been on the Woodbine area, the upper area of Woodbine, Coxwell, in there, over the years from Metropolitan Toronto. They are only now coming around to a stack, and those two old brick stacks are discolouring it to that extent. I am interested in why we have been so lenient with them.

**Hon. Mr. Auld:** That is basically why the—

**Mr. Drea:** I would like you to have a look at it, and it is a really remarkable little bit of evidence. There is no way you can say it came from Hydro because the Hearn plant stack is much, much, much higher. This is coming right from those two stacks.

**Mr. Wardle:** Madam Chairman, Mr. Minister, I have lived with this problem for years. Again, the Hearn plant and the Commissioners St. incinerator are not in my area, but the prevailing winds carry them over. A housewife would put her washing out—those who still do—on a Monday morning, and this fine ash would fall on the washing—fresh fallen snow. It was quite apparent where it was coming from. I have been continually pressing Metro, and I was glad when they went ahead with this improvement. I do hope that—I think \$5 million is now being spent on the improvement of that plant—it is going to solve that problem for all time. It has been a problem for years nad years.

**Mr. Drea:** Until the wind blows the soot off them.

**Hon. Mr. Auld:** The history of the Commissioners St. station was—they notified us April 30, 1973, of what they were going to do. They indicated that the programme would be completed on Dec. 31, 1974, and that is the date specified in approval. As far as I know they are on schedule.

**Mr. Wardle:** I think it was two years ago—

**Hon. Mr. Auld:** It is still emitting.

**Mr. Wardle:** I think it was two or three years ago, Mr. Minister, that you gave them a time schedule. They have lived up to that time schedule, I understand, at the present time.

**Hon. Mr. Auld:** That is correct.

**Mr. Wardle:** And when that programme is finished, in the opinion of yourself and your officials, this should solve that problem.

**Hon. Mr. Auld:** That is correct.

**Mr. Wardle:** I can assure my people to that effect.

**Hon. Mr. Auld:** It will be a happy New Year's Eve.

**Madam Chairman:** Do you have a question, Mr. Newman?

**Mr. B. Newman:** On air management, not noise.

**Mr. Haggerty:** My concern, Madam Chairman, is the increased expenditure of almost \$1 million. The member for Sudbury East (Mr. Martel) last night was speaking on the topic of monitoring in that particular area in the Sudbury basin. How many monitors do you have installed throughout the Province of Ontario and in what communities?

**Hon. Mr. Auld:** I wonder if we could not repeat the ones in—

**Mr. Haggerty:** Sudbury!

**Hon. Mr. Auld:** Sudbury, no! What were the other ones you gave last night?

**Mr. B. Newman:** Windsor, I think it was.

**Hon. Mr. Auld:** And the rest of them?

**Mr. Haggerty:** Pretty well the rest of them are there.

**Hon. Mr. Auld:** Well, there is a lot of—

**Mr. Haggerty:** Well, perhaps I will phrase that differently then. There are some communities that I know where you have monitors installed. What happened to the monitor that was supposed to have been installed by the previous minister in charge of the Environment Ministry? I believe it was two years, or three years ago, he said he was going to install a couple of them in the city of Welland.

**Hon. Mr. Auld:** For this year the monitoring network will be increased to cover particulate and sulphur dioxide, with continuous monitoring in Oakville, Brighton, St. Catharines and Welland.

**Mr. Haggerty:** Where is that monitor to be located in Welland? Or has it been located?

**Mr. Macfarlane:** There is a monitor at the St. Peter and St. Paul's school, near the Union



Carbide plant. The other one, if I recollect correctly, is near the Atlas Steel plant.

**Mr. Haggerty:** There are two monitors in the city of Welland then?

**Mr. Macfarlane:** Yes, two high volume monitors there.

**Mr. Haggerty:** Has Union Carbide complied with the ministerial stop order—I guess that's the phrase I'm looking for—to phase out certain types of furnaces at its Welland plant? Has that order been carried out?

**Hon. Mr. Auld:** Yes, it has. They have recently asked for permission to restart one of the furnaces there, because they have to close another one down for maintenance; and I think we have granted that, haven't we?

**Mr. Macfarlane:** They are closing down two to substitute this one.

**Mr. Haggerty:** For how long is the extension then?

**Hon. Mr. Auld:** There is no extension. At the time we discussed their problem, they wanted to keep them open until their new plant in Beauharnois, Que., is operating, because of the need for tungsten or—

**Mr. Drowley:** Manganese.

**Hon. Mr. Auld:** Yes, manganese. They wanted an extension from Dec. 31, 1972, for six months and we wouldn't grant it. But we did indicate—and they said that it could well be—that they would have to reline some of the furnaces if they were permitted to keep operating until Dec. 31 of this year.

**Mr. Haggerty:** This is the final year?

**Hon. Mr. Auld:** We haven't altered the control over them. We have permitted them, as we indicated we might, to close down some furnaces for relining, or repairs or something, and reopen one of the units that was closed.

**Mr. Haggerty:** In other words, perhaps they had no intention of continuing their operation in the city of Welland if they get requests to bring in suitable air abatement controls in that plant.

**Hon. Mr. Auld:** Well, they have recently asked us for permission to restart some of the ones that are supposed to be closed because of problems of the supply of manganese. Actually, we got in touch with the steel companies to find out whether in fact there was as great a problem as was

indicated. I think we have had replies from two, which said that it is a problem because if they can't get manganese from Union Carbide, they are going to have to get it someplace else at considerably higher cost.

**Mr. Haggerty:** There shouldn't be too much of a problem in the plant itself, if I can recall some of the furnaces that are built there. These are small electrical furnaces and the only thing that is lacking is that they don't have any type of a hood to control the escaping fumes, and with a little expenditure in that plant they could almost continue their operations.

**Hon. Mr. Auld:** If we are talking about the same furnaces, they are very old ones.

**Mr. Haggerty:** Well, they are constructed almost in a large pot and they use electrodes I guess to melt material down—if I can think of the manganese furnaces that are there. The only thing is that they just have the open building there with the ventilators on top and the fumes off the furnace that just carry out into the community.

**Hon. Mr. Auld:** Well, I have been there and what was coming out the stacks—

**Mr. Haggerty:** There is no stack there, it just comes out the top of the building.

**Hon. Mr. Auld:** Well, what was coming out was pretty thick.

**Mr. Haggerty:** Yes, this is right. If you come by with a car you have to put your lights on. It is that bad in the daytime. But as I said, I think they could put in the proper abatement programme in there with scrubbers. I think it could reduce the air contamination.

**Hon. Mr. Auld:** Well, they chose not to.

**Mr. Haggerty:** Pardon.

**Hon. Mr. Auld:** They chose not to.

**Mr. Haggerty:** Pardon.

**Hon. Mr. Auld:** They chose not to.

**Mr. Haggerty:** They chose not to, but then they've asked you to start up on the other furnaces, have they?

**Hon. Mr. Auld:** Yes, well perhaps Mr. Drowley can give you an answer.

**Mr. Drowley:** What they have actually asked us to do is to be able to substitute one furnace for another, but not increase

the amount of emissions that they were limited to, while still adhering to the final closure date that was specified in the order.

**Mr. Haggerty:** If they substitute some of the small furnaces for the two larger ones, certainly they are going to increase their pollution about three or four times.

**Mr. Drowley:** In this particular case, we have made darn sure that there is no increase in the emission if we allow them to substitute. One of the proposals that they did come to us with was to ask if they can start up some additional furnaces. We said if they wanted to do that they would have to operate on the basis of an air pollution index. They would have to supply all the equipment themselves. They chose to go the other way. So, actually there is a net reduction in emissions for the substitution that they are on right now.

**Mr. Haggerty:** Okay, Mr. Minister, that's all I have to ask now.

**Madam Chairman:** The next person I have is Mr. Lawlor.

**Mr. Lawlor:** Thank you very much, Madam Chairman. I'm going to have to be very quick this year. I've just been called again up to the House for the Solicitor General's estimates. It will be the only opportunity which I will have to appear. I had done considerable work over the summer on environmental law, but we'll save it up for next year, I guess. The only thing I want to mention here is a local problem with me, as the minister well knows. What is the present status and plans for the ignominious Kipling-Horner incinerator in Toronto?

**Hon. Mr. Auld:** At the moment, my information is that Metro has budgeted some \$25 million for this operation, which is to handle, I think, 600 tons a day.

**Mr. Deacon:** It is \$25 million for 600 tons? Hamilton spent \$7.5 million.

**Hon. Mr. Auld:** It is 1,200 tons a day.

**Mr. Deacon:** Even that for \$25 million. Hamilton might spend \$10 million for that. Toronto certainly has fancy ideas as to what it wants.

**Hon. Mr. Auld:** I know that the \$25 million is correct.

**Mr. Deacon:** Too bad Toronto is so far behind.

**Hon. Mr. Auld:** At the moment, Metro is working with us and with Hydro on a proposal to burn about 600 tons a day with, say, 10 per cent garbage and 90 per cent coal in one of the boilers at Lakeview. If that happens it would require an expenditure on the part of the city for a collection station and two-stage grindings of perhaps \$3 million and an expenditure on Hydro's part of something considerably less than that, we expect. If this works, then they will not go ahead with their Kipling-Horner plant.

**Mr. Deacon:** That makes sense.

**Mr. Lawlor:** That's very good, I'm delighted to hear it. What a relief!

**Mr. Good:** How long will this experimental project take?

**Hon. Mr. Auld:** We are really into waste management but, as of the end of June the group that is working expects to be able to indicate what engineering is required, that it is feasible to pursue the project, and what engineering studies are required to get the answers for the equipment and the installation.

**Mr. Lawlor:** Since I haven't got very much time, I will simply ask for a couple of things. One, I would ask your ministry to bring me back up to date with respect to monitoring statistics in the Toronto area. Mr. Macfarlane, my great friend, knows all about the sulphur indexes for 1972 which I have not got. Anything that you have of more recent vintage with respect to incinerator construction and building—and there may be some Metro studies, I believe, I haven't got—I would ask your kind indulgence in letting me have.

**Hon. Mr. Auld:** Do you want them now?

**Mr. Lawlor:** No, sometime in the future; there is no hurry on it.

One final remark: I had asked on previous occasions for a monitor and I would ask the minister to consider it. It seemed to me that with that proposed incinerator—leaving it aside as an incinerator in any event—there will be increased loadage in the Lakeview area. That has been recommended and was argued by us before the Municipal Board that this was a good idea.

When we argued before the Municipal Board for many, many days over that incinerator situation which was placed in suspension—it was suspended particulate matter in this case—at that time we suggested a monitor be placed somewhere downwind, that is in

the Mimico area, Mr. Leluk's riding, to catch the total effect with respect to Continental Can, Campbell Soup, Goodyear, and the whole complex of industry right in there, together with the Lakeview, which would give us a much better reading, I suspect, than the several monitors which are located west of the proposed site here and to the north of it. There is nothing in toward Toronto, as far as I know. We have asked it and I would ask you to take it under consideration.

The only other matter is the business of transportation. If I had time I would stay and like to discuss with you the use of railways and the use of trains with sidings. Transporting garbage would come under solid waste disposal, I'm sure. Nevertheless it was a proposal that was mooted. We dismissed it more or less with Mr. Kennedy and others because the suggestion at that time was that the cost was exorbitant. However, it suddenly has become feasible and it is being advanced, with some difficulties admittedly. I would trust my colleague or someone would raise this matter so I could get a clear picture of what plans the ministry has under this particular head.

Thank you very much, that is all I can stay for.

**Madam Chairman:** Mr. Newman, did you have a question you wanted to raise?

**Mr. B. Newman:** Yes, I wanted to bring to the attention of the minister a research study conducted by the Scott Research Laboratories of San Bernadino, Calif., the organization apparently working for the Environmental Protection Agency in the United States. They find that in filling of the tank of gas at the gas pump, the fumes escaping produced more hydrocarbons than the burning of the tank of gas. According to the new Environment Protection Agency's requirements for the 1973 cars, cars can emit no more than 3.4 grams of hydrocarbons, yet the emission from filling of the tank of gas contained 54 grams of hydrocarbons. Is there some way that this problem could be overcome, Mr. Minister? Would it require new methods of filling the gasoline tank of an automotive vehicle?

**Hon. Mr. Auld:** I think California is proposing some device which is supposed to eliminate this. The figures are these: The average emission of hydrocarbons during each fuel tank fillup is 56 grams. This consists of six per cent due to spillage and 94 per cent due to the displacement of hydrocarbon

vapours by the ingoing fuel. The quantity of gasoline pumped into an automobile tank during average fillup is 12 US gals. Twelve US gals. equal 10 imp. gals. If the average fuel consumption is 1 imp. gal. per 14 miles, this is equivalent to a loss of 56 grams in 140 miles or 0.4 grams per vehicle mile, which is the same rate of emission as the hydrocarbon standard—0.41 grams per vehicle mile—which is due to come into force in the U.S. in 1976.

**Mr. B. Newman:** Right. Mine happens to be a press release from the Detroit Free Press of March 9 of this year. The thing that amazes me on it is we are so concerned with automobile emissions, yet here you have the filling of the tank causing more hydrocarbon emission, or as much in quantity as the actual burning of the fuel. Maybe we should also be concerned with some types of controls, or some new method of filling the vehicle, or maybe require the manufacturer to make a new type of a gas filler on the vehicle, as well as have the gasoline people develop a new type of nozzle for the filling of the gas tank.

**Hon. Mr. Auld:** The information we have is that there is some kind of device available which is supposed to cure this problem and the cost of installaton is about \$4,500.

**Mr. B. Newman:** Is the ministry looking into this with the hope of coming through with some type of recommendation?

**Hon. Mr. Auld:** Yes.

**Mr. B. Newman:** How long will it be before we can expect some type of action?

**Hon. Mr. Auld:** I really couldn't say.

**Mr. B. Newman:** Are we talking about six months, a year, or are we talking about an eternity?

**Hon. Mr. Auld:** Well, something in between.

**Mr. B. Newman:** The minister hit the nail on the head!

**Madam Chairman:** Excuse me, Mr. Newman, time is coming to a point where the minister had asked if we could close a few minutes early, so that he could make his travel arrangements on time.

**Mr. B. Newman:** I don't mind missing 10 minutes, Madam Chairman, as long as I have a chance to make a few more comments later. I have some other comments concerning auto pollution.



Hon. Mr. Auld: It is all right, then. I just wanted to know who can go back to work on Monday and who has to appear.

Madam Chairman: All right. Could I have a motion for adjournment, please?

Mr. B. Newman moves the adjournment of the committee.

Motion agreed to.

The committee adjourned at 12.50 o'clock, p.m.

CONTENTS

Friday, May 25, 1973

Air and land pollution control programme, continued .....	S-689
Adjournment .....	S-710



# Legislature of Ontario Debates

## **STANDING COMMITTEE ON SUPPLY**

**Estimates, Ministry of the Environment**

**Chairman: Mrs. M. Scrivener**

**OFFICIAL REPORT — DAILY EDITION**

**Third Session of the Twenty-Ninth Legislature**

**Monday, May 28, 1973**

**Afternoon Session**

**Speaker: Honourable Allan Edward Reuter**

**Clerk: Roderick Lewis, QC**

**OFFICE OF THE SPEAKER  
PARLIAMENT BUILDINGS, TORONTO  
1973**



## CONTENTS

---

(Daily index of proceedings appears at back of this issue.)



## LEGISLATIVE ASSEMBLY OF ONTARIO

MONDAY, MAY 28, 1973

The committee met at 3:07 o'clock p.m., in committee room No. 1; Mrs. M. Scrivener in the chair.

## ESTIMATES, MINISTRY OF THE ENVIRONMENT

*(continued)*

On vote 1803:

**Madam Chairman:** Mr. Minister and gentlemen, this meeting of the standing committee on estimates will come to order. The substitutes I have are: Mr. Havrot for Mr. Beckett, Mr. Burr for Mr. Deans.

We are on page R36, vote 1803, item 1, air management. The next speaker I have—Mr. Newman, were you still on? You hadn't completed?

**Mr. B. Newman** (Windsor-Walkerville): Right.

**Madam Chairman:** All right. I have Mr. Newman and then I have Mr. Burr and Mr. Braithwaite.

**Mr. L. A. Braithwaite** (Etobicoke): Madam Chairman, is Mr. Good a member of the committee?

**Madam Chairman:** Yes.

**Mr. Braithwaite:** Then I will be substituting for him.

**Madam Chairman:** All right. You are already a member of this committee, Mr. Braithwaite. You don't need to substitute if you are a member.

**Mr. B. Newman:** I will take Mr. Good's place.

**Madam Chairman:** All right. Mr. Bounsall, do you want to speak? Mr. Braithwaite, were you holding up your hand to speak or to—

**Mr. Braithwaite:** To speak.

**Madam Chairman:** Go ahead, Mr. Newman.

**Mr. B. Newman:** Thank you, Madam Chairman. You may recall last week, Mr. Minister, we were discussing air pollution as it affected the Ford Motor Co. In the meantime, I've been able to get the press clipping concerning the Ford Motor Co. being fined \$1,000 for air pollution. The judge's statement is extremely significant, Mr. Minister, and I'm going to quote his statement. Ford is "not morally culpable of any crime." Judge McMahon said. "This amounts to asking this court to grant Ford a licence to continue breaking the law. It is demeaning to the court."

Will the minister explain that?

**Hon. J. A. C. Auld** (Minister of the Environment): Madam Chairman, as I said last week—even without the clipping when the hon. member mentioned this—I really couldn't comment on the judge's comment, certainly until I had seen the transcript. I was still puzzled as to why he was quoted as having said this if, in fact, the maximum fine, being \$5,000, he did not impose the maximum.

I think we also indicated that Ford had not completed its programme. I think you had another press clipping about some announcement of Ford's about the foundry. I've forgotten the dates but I think Mr. Macfarlane indicated that there is still a number of things it has to do—the company is on schedule to do them but they have not yet been completed—so that it would be in conformity with all the requirements.

**Mr. B. Newman:** Mr. Minister, the other comments of the judge are extremely noteworthy and from them one would conclude that the department has no intentions of really pursuing the matter because, according to the report, there is no technological way of overcoming the problem. Is your department convinced that the technology has not advanced sufficiently for Ford Motor Co. to overcome the air pollution problem from its foundries?

**Hon. Mr. Auld:** I have asked Mr. Macfarlane to detail what the various problems are, and I think there are several. To my knowledge, there is no effective technology at the

present time to remove totally sulphur dioxide, for instance, from certain processes in the plant.

It's rather complicated because there are three problems really. One is the raw material; the second is the process; and the third is the actual removal at the other end. I don't know how many different programmes Ford has embarked on at the foundry. I assume we are talking about the foundry, but perhaps Mr. Macfarlane could give us some detail on that.

**Mr. C. J. Macfarlane** (Director, Air Management Branch): I think I mentioned last week, sir, that the low-level malodorous situation was going to be remedied by a very substantial process change taking place in the handling of sand in the making of castings. The second substantial change that we are still looking forward to is the change in the cupola itself which has contributed to the higher-level emission of contaminants.

**Mr. B. Newman**: Mr. Minister, this morning at 7 o'clock, Ford Motor Co. was polluting from the foundry. I wonder if you will get a report from your officials in Windsor stating that at 7 o'clock in the morning they were—

**Hon. Mr. Auld**: Was this the foundry?

**Mr. B. Newman**: Yes, the foundry.

**Hon. Mr. Auld**: You observed this, did you?

**Mr. B. Newman**: Yes. In fact I brought it to the attention of Mr. Burr as we were waiting for the train at the station.

**Hon. Mr. Auld**: Did you have an opportunity to report it to our people, by chance?

**Mr. B. Newman**: Not as yet because we were on the train until 12 o'clock and you know what time we have had since then. I've reported it to you now so your officials do know and I hope the Windsor people do know.

Now, in your estimation, Mr. Minister, can the problem be resolved? Is the technology available to overcome the problem?

**Hon. Mr. Auld**: You mean all of the problems?

**Mr. B. Newman**: All of the problems.

**Mr. Macfarlane**: I believe it is.

**Mr. B. Newman**: It is?

**Mr. Macfarlane**: Yes.

**Mr. B. Newman**: Then the judge's comments are really not accurate when he comes along and mentions that technology is such that there is no way of completely resolving the problem of overcoming the air pollution?

I'd like to read what he mentions in his 25-page report. I do hope the ministry gets a copy of Judge McMahon's decision because I think it is extremely important to the air pollution legislation in the province and could require some types of amendments to it. This is not a too-lengthy comment, Madam Chairman, so I won't prolong the committee. In his 25-page written decision, handed down on April 27, Judge McMahon says that there was no question that Ford knew of the emission of air contaminants. "The defence is rather that it was impossible for the company to comply with the regulation short of terminating its entire operation."

There are more quotes to it but I'll stop at that point.

That is a little different from what you people say. You people say that technology is such that you can overcome the problem. I'll continue the quotation.

I have been unable to locate in Ontario, or for that matter any Canadian case where such defence has been considered or accepted.

I would, however, express my personal view that the defence of impossibility should lie in the statutes of this nature where the accused establishes affirmative evidence (a) that all reasonable steps have been taken in order to comply with the restriction short of terminating the offending operation entirely; and (b) the termination of the public harm equal to or greater than the harm prohibited by the public statute.

Mr. Minister, apparently your legislation will need updating for you to be able to bring Ford Motor Co. into the courts again. I hope your officials do look at that and come in with any necessary amendments that may be required so that Ford will overcome the problem. I'm assuming that technology is available as your officials make mention.

**Hon. Mr. Auld**: I'm just having it checked, but off the top of my head I think that that charge was laid some time ago.

**Mr. B. Newman**: Two years ago.

**Hon. Mr. Auld**: Perhaps a couple of years ago.

**Mr. B. Newman**: Two years ago, right.

**Hon. Mr. Auld:** And the problem involved has since been resolved.

**Mr. B. Newman:** The problem has been resolved?

**Hon. Mr. Auld:** But I am checking that for you.

**Mr. B. Newman:** All right. If it requires amending the legislation I would hope that you and your officials, Mr. Minister, would introduce that.

There is only one other item I want to bring up—I will not return to the Ford Motor Co.—and that is: In the construction industry there are certain types of foam used as insulation. Plastics, not foam. It's a foam plastic. Now, that plastic, when it burns, emits poisonous fumes. Is your ministry considering recommending to other ministries that certain brands of plastic insulating materials be banned from the market as a result of the dangerous pollution in their burning?

**Hon. Mr. Auld:** Not at the present time. There are a number of things that are used in construction, or in furniture, or I suppose around the home, which, if burned, would produce some sort of noxious gas or odour. Again, I would stand corrected by my own staff, but I don't know how it would be possible to ban something for sale normally used for one purpose which, if it were involved in something else beyond the control of the owner would create a hazard. I suppose you could say that nobody should have gasoline in the tank of his car because if the garage caught fire it might explode.

**Mr. B. Newman:** I'm referring to the construction industry, Mr. Minister, in homes where—

**Hon. Mr. Auld:** I presume you are talking about something like Styrofoam?

**Mr. B. Newman:** That's right. Yes, certain types of foam.

**Hon. Mr. Auld:** Well, I don't know, without getting into a philosophical area here. But I am told that it's a very good insulator and if we are trying to conserve energy, maybe we should be requiring more of it rather than some of the less-effective materials.

**Mr. B. Newman:** Yes, but maybe there is some type of chemical composition that can be added, or some chemicals that can be added to it or taken away from it, that would not reduce the insulating qualities but could

still reduce the hazard of the fumes, the pollutants that can kill.

**Hon. Mr. Auld:** I really don't know, but I will inquire.

**Mr. B. Newman:** I would appreciate it, Mr. Minister, if your officials would inquire of that, and see if that problem couldn't be resolved.

Now, the only other question that I want to ask is, Mr. Minister: Would you mind your officials at some time providing me with the list of the industries in the city of Windsor and environs that are under work orders, and the time limits of their work orders, to overcome pollution problems that they may have—both air and water?

**Hon. Mr. Auld:** Just specifically the ones where we may have made an order or the—

**Mr. B. Newman:** Yes.

**Hon. Mr. Auld:** —ones who have voluntary programmes?

**Mr. B. Newman:** No. Those that you have made an order on.

Thank you, Madam Chairman.

**Madam Chairman:** Mr. Burr.

**Mr. Burr:** I'd like to exchange places with Mr. MacDonald, please.

**Madam Chairman:** Surely.

**Mr. D. C. MacDonald (York South):** Can I pick up what Mr. Newman has just raised in reference to Ford? It provides a very appropriate starting point for a number of questions I wanted to raise with regard to our old friend Canadian Gypsum.

I assume the charges against Ford were laid by your branch and therefore I would assume that you wouldn't lay—well, let me ask the question: If you lay charges against a company, then would it be fair to assume that the Act permits of a conviction because of the fact that you have come to the conclusion that the situation can be remedied? In other words, it's within the technological possibilities for it to be remedied. Is that a fair assumption?

**Hon. Mr. Auld:** Yes.

**Mr. MacDonald:** Well, if that is the case, then I'll get to the nub of the thing, and that is the attitude of the courts on this whole business. It strikes me—and neither you nor I is a lawyer so I suppose we can have great



fun as laymen on this—but surely that judge was being presumptuous to an outrageous degree? What right has a judge to say that a company isn't morally culpable? It is our responsibility in the Legislature to decide what are the offences and what shall be the penalties.

**Hon. Mr. Auld:** Or the range of penalties.

**Mr. MacDonald:** Or the range of penalties. For a judge to step out of his role, which is to judge whether or not they have been guilty and to levy the penalties, and to presume to come to the conclusion that the company isn't morally culpable, is in effect to say that we haven't done the right thing in passing the legislation. Am I not right?

**Hon. Mr. Auld:** Well, as I said before, I have asked to see a copy of the decision. I would like to read it all but it did seem surprising to me when the quotation from the press clipping indicated that—as I say, the judge had not imposed the maximum fine, so I assume that he assumed that he didn't need to impose the maximum penalty.

**Mr. MacDonald:** But he also—

**Hon. Mr. Auld:** His comments seemed odd to me but—

**Mr. MacDonald:** But, he also used the excuse that technology has to catch up with the technological problem before he can move. But that's presuming to second-guess your ministry, which with expert advice has come to the conclusion the technology is available to solve the problem.

**Hon. Mr. Auld:** Well, another thing—again speculating, without having all the details of this one before me—it could well be that the technology was available but not being applied as rapidly as it could have been.

**Mr. MacDonald:** And therefore you are entitled to lay a charge.

**Hon. Mr. Auld:** Yes, because this has happened before.

**Mr. MacDonald:** Right.

**Hon. Mr. Auld:** Where there is a degree of treatment—if I can stick to generalities—which, while it would not solve the entire problem, would solve it to the degree that our expert staff considers it is possible.

**Mr. MacDonald:** Well, let me leave the courts for a moment and come back in reference to Canadian Gypsum. Now what hap-

pened in Gypsum? May we remind ourselves? On the first charge they were convicted and fined \$1,000?

**Hon. Mr. Auld:** You are not talking about the Oak Ave. plant?

**Mr. MacDonald:** Yes, up on Oak Ave., right. They were fined \$1,000. Now when I raised the matter with your predecessor in that portfolio, George Kerr, I asked how come, after the 30-odd years that this pollution has gone on, there should be a fine of \$1,000 when it could have been \$5,000? Mr. Kerr, as a lawyer as well as the minister, observed that: "This is the first conviction for this company and if it is brought to court again and convicted a second time the fine will be substantially more."

That was an interesting comment.

**Hon. Mr. Auld:** I shouldn't say this because I would be quoted, but to put it the other way I would not have said that because I was not the judge and I would have no idea what the judge would do under any set of circumstances.

**Mr. MacDonald:** Except what George Kerr said was plain common sense. Let us set lawyers and their legal interpretations aside for the moment.

If a company is fined \$1,000 the first time, when the fine could have been \$5,000, and it gets a second conviction, it seems to me plain common sense that they would get a heavier fine. Otherwise, you are playing games with your whole penalty system. We know what happened. In fact they got a \$200 fine for the second when it could have been \$10,000. However, that is only the beginning of the story—let's bring it up to date. They appealed the \$1,000 fine and they won their appeal and the whole thing was thrown out and they are now appealing a \$1,500 fine along with a later conviction.

Now, are you in a position to tell me what was the reason for dismissal of that first \$1,000 fine?

**Hon. Mr. Auld:** I am just trying to get the score card.

**Mr. MacDonald:** What was the reason for the dismissal of that first \$1,000 fine when they appealed? Can you tell me that?

**Hon. Mr. Auld:** I am afraid I don't know, but I have got someplace here—because I thought somebody might be asking—the history of that plant, the various charges; the charges they were found not guilty on which

we appealed, the ones they pleaded guilty to. I think we withdrew one or two where we had laid several charges. It is not too long ago because—

**Mr. MacDonald:** Well, from my point of view the brief summary is that on the \$1,000 fine they appealed and it was dismissed, so presumably they have their money back on that. On the second conviction on which they were fined \$1,500, they are appealing that. This reduces to an utter shambles your whole penalty proposals.

**Hon. Mr. Auld:** We had a single sheet which I have someplace. At any rate, here are the prosecutions in 1972: Canadian Gypsum Co. Ltd. Toronto, May 30, 1972. They were found guilty and fined \$1,000. They appealed and the appeal was allowed. May 30, they were found not guilty on the second charge, we appealed it and then we abandoned the appeal. Then on June 19, they were found guilty and fined \$1,500; they have appealed and that apparently has not yet been adjudicated.

**Mr. MacDonald:** That is in essence what I have said up to now.

**Hon. Mr. Auld:** Then on Dec. 14, 1972, there were three charges which we withdrew and there was one charge on which we proceeded. They were found guilty and fined \$1,000 and they have appealed that one and it hasn't been decided yet.

**Mr. MacDonald:** Is that the end of the story?

**Hon. Mr. Auld:** No, I have an idea that there are a couple more, and I think I am right. We agreed not to proceed with two charges and they agreed to withdraw their appeal. I can't tell you which two appeals they were, but I assume it is that \$1,000 one for Dec. 18, 1972, and the \$1,000 for—

**Mr. MacDonald:** Fifteen hundred dollars.

**Hon. Mr. Auld:** —for May 24, 1972.

**Mr. MacDonald:** But they are still polluting.

**Hon. Mr. Auld:** No, in that plant they are now either on target or they have completed everything.

**Mr. MacDonald:** There are still some complaints in the community but they have completed the installations, and I suppose you will have to assess it.

But I am going to operate on the assumption,

Mr. Minister, that you want to penalize when you lay charges—otherwise you are playing games—and that the penalty isn't going to be just a soft touch. How are you going to make it effective so that the people against whom you are going through the exercise of laying charges will know you mean business? The courts, in the instance of Ford, in an outrageously presumptuous way, in my view, were in effect saying we didn't have the right to do what we did in making this an offence.

Now they appeal convictions that have been made and they are able to get them dismissed. They are in the process of appealing two further convictions and they may get them dismissed or they will be drawn in this sort of deal you are working out with them now. How are you going to make it stick? Have you given any consideration as to how you make your penalty system stick?

**Hon. Mr. Auld:** I repeat first of all what I said last year, that my own interest is not in getting convictions but getting compliance. I am not anxious to lay charges simply to have a good score sheet at the end of the year. I am more interested in having a good score sheet in the air quality index. I suppose that it would be nice if we could make an order, as we can do where there is an imminent danger to health, as in the case of that lead crushing operation. We can move in and—there is an appeal but it is after the event—the emission stops or in this case the present danger to health stops. On the other hand, I think you would agree that the courts are there to ensure that governments don't ride roughshod over the rights of individuals or corporations.

**Mr. MacDonald:** Sure, you are setting up a straw man and beating him down on that. There is no being roughshod, it's been weakened.

**Hon. Mr. Auld:** Well, it depends on who you talk to. I don't know that the answer would be having a scale of fines set out in the legislation that said, if it is the case of a large corporation, the minimum fine is \$1,000, and on any subsequent offence it is \$5,000 or \$10,000. There can be circumstances, I suppose, where a subsequent conviction might be of far less gravity or magnitude than the first conviction, or the first conviction might be felt by the court to be relatively minor.

Again harking back to the old drunken driving law, as I recall, the general consensus was that since the minimum penalty was ex-

treribly severe the courts in many cases didn't convict. This is how we came to have two offences—a lesser one of impaired driving and the more serious one of drunken driving.

I guess the only thing I can say is I really can't answer your question because I don't know of a way, and I haven't—

**Mr. MacDonald:** Have you considered mandatory fines on at least second offences at a certain level that really would be punitive so that you remove from the court the opportunity of only a \$200 fine on second offence, when it could have been \$10,000?

**Hon. Mr. Auld:** I have thought about this and I have talked to people about it. I haven't come to any conclusion, to the point where I would bring forward amendments to the legislation in that connection.

**Mr. MacDonald:** Well, I don't know.

**Hon. Mr. Auld:** The main thing is that after about 30 years, as I think I said in the House last year, Gypsum seemed to get the message. I think I should also again mention that quite aside from the fine, I suspect the cost to the company in legal fees—because there were many appearances and remands and whatnot—were four or five times what the total of the fines would be, appealed or not.

**Mr. MacDonald:** Mr. Minister, do you know why Canadian Gypsum got the message a year or two ago? Because for the first time in 30 years they had some indication that somebody was serious in stopping them.

**Hon. Mr. Auld:** I think I mentioned to you I had a meeting with the president.

**Mr. MacDonald:** I know it. Okay. But this is really the thrust of all of my questioning. There are a lot of people—and I wondered whom you had talked to when they said you hadn't come to a conclusion on mandatory fine levels on secondary offences—because I could suggest a lot of people that you could talk to and they would suggest a mandatory fine level—if you are really serious. You see how ludicrous it is? They have had one \$1,000 fine which has been appealed; there is a \$1,500 fine, which they are appealing; that is a total of \$2,500 in fines—forget the legal fees. And you, meantime, have given them over \$3,000 in incentive grants to clean up their pollution. You have provided them with the money, so far, to pay their fines.

**Hon. Mr. Auld:** Well, it didn't provide them with the—

**Mr. MacDonald:** Well, that is the way it works out on the books!

**Hon. Mr. Auld:** —\$800,000 and some-odd of expense to put in whatever gadgetry it was that they put in.

**Mr. MacDonald:** They are putting in \$800,000, I know, after 30 years when they could have put it in a lot earlier, but you have—

**Hon. Mr. Auld:** But in all fairness we have only been in the air business for six of those, so I don't think you can blame us for the first 24.

**Mr. MacDonald:** For the first four years they didn't get the message even from you. The last two years they did. But I repeat, meanwhile you have given them incentive grants for \$3,781.34 which is now about three times the amount of money outstanding in fines.

**Hon. Mr. Auld:** That is the remission on the Provincial Secretary's office?

**Mr. MacDonald:** I don't know what it is. It's what Canadian Gypsum received in pollution abatement incentive grants.

**Hon. Mr. Auld:** I must say that it doesn't seem much like five per cent of \$800,000. However.

**Mr. MacDonald:** These figures were calculated last November. They maybe didn't have the whole \$800,000 then at that point.

Well, Madam Chairman, I make the point—I don't know with what purpose or what achievement—that if you really want to enforce your legislation you have got to give some clear evidence that you mean it.

**Hon. Mr. Auld:** I know I have your support.

**Mr. MacDonald:** You have my support? I am behind you, pushing.

**Madam Chairman:** Is that everything for you, Mr. MacDonald?

**Mr. MacDonald:** No. As John Yaremko says, the tones are eloquent, they convey the meaning.

**Madam Chairman:** Mr. Braithwaite.

**Mr. Braithwaite:** Madam Chairman, I would like to bring a few matters concerning noise pollution to the attention of the minister.



**Hon. Mr. Auld:** On Friday we agreed that we would deal with the air emission part first. They are both in the same vote. And then we'll get to the noise part so we would all be on the same matter.

**Mr. R. Haggerty** (Welland South): If you get in aircraft you are going to be into both of them.

**Mr. Braithwaite:** Madam Chairman, I wanted to talk about the air pollution from automobiles at both ends of Metro. That is noise and air pollution. And I wanted to talk about some of the factories up in Rexdale.

**Hon. Mr. Auld:** Could you deal with just the air part first?

**Mr. Braithwaite:** Well, we'll go all over it again. It doesn't make any difference to me, but—

**Hon. Mr. Auld:** Well, if you got into the noise from vehicles we will probably go over that two or three times, too.

**Mr. Braithwaite:** No, the point I am making is that the noise from vehicles is directly connected with the problem and it is not only the noise but it is the air pollution from salt and spray in the winter, and dirt and so on in the summer. They are all connected.

Now if the minister would prefer to wait it makes not that much difference to me, but—

**Madam Chairman:** If you want to talk about cars as pollutants, could you just separate the kinds of pollution?

**Mr. Braithwaite:** I don't think it is possible to separate them, because I am going to be talking about the need for noise barriers in Scarborough and in the western part of Metropolitan Toronto.

**Madam Chairman:** Well, perhaps you had better wait.

**Hon. Mr. Auld:** Do you want to talk about carbon monoxide and hydrocarbons?

**Mr. Braithwaite:** Well, by the time you get into that you are into the whole problem.

**Hon. Mr. Auld:** We had quite a discussion about that, on Friday, I guess—

**Mr. Braithwaite:** On the question of the noise barriers?

**Hon. Mr. Auld:** No, on automobile emissions.

**Mr. Braithwaite:** Well, as far as I am concerned, Madam Chairman, I want to follow the procedure the committee is taking of course, but—

**Madam Chairman:** It was a spokesman from your own party that raised this whole subject of emissions from automobiles.

**Mr. Braithwaite:** The only thing is that I will be speaking about emissions. This is the point I am making.

**Mr. T. P. Reid** (Rainy River): Whether you get it now or later it doesn't make any difference.

**Mr. Braithwaite:** Yes, why not do it now and get it over with, because aircraft—

**Madam Chairman:** I have asked everybody else to wait, Mr. Braithwaite, and in view of that fact, I would ask you to conform.

**Mr. Braithwaite:** The only point I am making is they are so very closely tied together—aircraft is noise pollution, it is also air pollution.

**Hon. Mr. Auld:** I guess the feeling of the committee at that time was that you could separate them as two different kinds of pollution and my suggestion—and we are here as long as you want us—was that if we could deal, the way we are set up, with the air emissions, then our air people can get back to work tracking down some of these things and I will keep my noise people here and we will deal with noise.

**Mr. Haggerty:** On your same topic, talking about pollution, we did discuss the matter of pollution from automobiles but what regulations apply to the trucks on our highways today? What type of an abatement programme do they have to control their emissions of pollution?

**Hon. Mr. Auld:** The emissions?

**Mr. Haggerty:** Well, I am talking about—

**Hon. Mr. Auld:** Engine emissions?

**Mr. Haggerty:** This is right. Yes. You see many of these large trucks coming down the highway and you can see the black smoke discharging for miles. You would almost think the old steamboat was coming down the highway. If you ever get behind them and have to drive behind them for miles, it is pretty sickening to the driver of an automo-

bile. You just can't drive, unless you have air conditioning.

**Hon. Mr. Auld:** Right. It still gets through. Colin?

**Mr. Macfarlane:** Until recently the trucking association, in conjunction with our ministry, has suppressed the black smoke emissions, which are the principal source of complaint about trucks. This hasn't been totally satisfactory and starting now we are doing a joint programme with the Ontario Provincial Police. We are on a programme of reduction of black smoke from automobiles starting, as it happens, probably today, if all has gone well this morning.

**Mr. Haggerty:** This is right. You very seldom see the Department of Transport officers pull over a truck and say: "Let's take a run in your vehicle and see what safety regulations are there"—even for pollution matters concerning it. I was just wondering about this, when I look at them coming down the highway like that, because as I said, when you get behind them, you can hardly drive your automobile if you have to stay in the line of traffic, especially if you are driving along the Queen Elizabeth Way and Gardiner Expressway.

I think it is time the government moved into this and brought in regulations that apply to trucks. You are bringing regulations in to apply to automobiles; I can't see how you can just leave them out of the picture.

**Mr. Macfarlane:** As I said, sir, the immediate programme is one of action with the Ontario Provincial Police, travelling with them in their cars along the highways, to record offences under the regulations for smoke. Further down the road we, in conjunction with the Ministry of Transportation and Communications, expect to have a fairly substantial programme—very substantial programme in fact—of smoke abatement, noise abatement and the ensuring of safety for trucks at such places as the weigh scales at the side of the road.

**Mr. Haggerty:** Do they have any pollution abatement control equipment available now on these trucks? Are they compelled to have controls on the same principle as they do in an ordinary automobile?

**Hon. Mr. Auld:** I think the black smoke question is one of poor maintenance on the vehicle.

**Mr. Haggerty:** I agree with you.

**Hon. Mr. Auld:** And we propose to do as Colin says. In fact, I think we have circularized the industry, to say that while there has been an improvement with the voluntary programme, there are still a lot of sources of emission. We are starting on a programme, first of all, of warning for a relatively short period of time, and then a programme of actual enforcement charges and that sort of thing.

**Mr. Haggerty:** Well, it has been suggested in reports—

**Madam Chairman:** Mr. Haggerty, excuse me. You know, Mr. Braithwaite has the floor.

**Mr. Braithwaite:** I just yielded it temporarily.

**Madam Chairman:** I was going to suggest this to you, that if you would like to wait I have Mr. Burr and Mr. Bounsall and Mr. Reid who all want to speak on air pollution. Then could we come back to you and you could make your points and launch us into a discussion also of noise control?

**Mr. Braithwaite:** That would be fine, Madam Chairman, except that I do have a small point on air pollution that I will just speak on—as soon as Ray gets finished here—a very small point.

**Madam Chairman:** Well, Mr. Haggerty, will you let Mr. Braithwaite continue, because he does have the floor.

**Mr. Braithwaite:** That is all right. Let him finish. Just a small point I wanted to ask about a couple of industries the minister will be familiar with.

**Mr. Haggerty:** It has been reported in different reports in the United States that 50 per cent of all air pollution is caused by automobiles in the United States, and the question I asked the minister was, do the present regulations that apply to the motor cars in Ontario, also apply to trucks? I mean, is this the type of pollution abatement equipment they have on the cars? Is it compulsory to have it on automobiles also—or are they just being bypassed and told: "Go ahead and put all you can put out on the highways."

**Hon. Mr. Auld:** As far as gasoline-fuelled vehicles are concerned, it applies to the smaller trucks, but my information is that it doesn't apply to the very large ones. I can't tell you where the breaking point is.

**Mr. Haggerty:** In other words, you are allowing one segment of the persons using high-

ways today to pollute yet other persons using automobiles or other equipment are compelled by law to control emissions. Now, that isn't justice, is it?

**Hon. Mr. Auld:** As I mentioned on Thursday, it's the government of Canada that sets the requirements and we're expected to enforce them.

**Mr. Haggerty:** Regardless of whether it's the government of Canada which sets the regulations or not, surely the minister has some initiative in saying an injustice is being done to the people concerned about air pollution? If we're going to allow the truckers to go out on the roads, I might as well go out and pull all the equipment off my car and get better mileage out of it. If they're going to allow one section of the industry, or the automobiles and trucks on the highways to—

**Mr. R. G. Eaton (Middlesex South):** It's not our law, it's the federal government's law.

**Mr. Haggerty:** Pardon?

**Mr. Eaton:** It's not our law. It's the federal government's law.

**Mr. Haggerty:** Regardless of whether it's the federal government or not, this is what you're here for—to see that justice is brought about in the Province of Ontario. I think it's the responsibility of the minister here to suggest they bring in that legislation. You're defeating the whole purpose of controlling pollution in the Province of Ontario if you allow this to continue.

**Hon. Mr. Auld:** I don't want to make any lengthy comment. The government of Canada, in its wisdom, has seen fit not to include heavy commercial vehicles at the present time. I don't know why. I can only say that I assume they must have had some reason.

**Mr. Haggerty:** Probably a big lobby by the trucking industry—that bears that out.

**Hon. Mr. Auld:** Of the heavy vehicles, I don't know the percentage, but I'd say—

**Mr. Haggerty:** There's a great number of them.

**Hon. Mr. Auld:** —a very, very high percentage use diesel.

**Mr. Haggerty:** This is right. But they're still putting out a pollutant. Maybe it's not as toxic as the pollutants the gasoline vehicles produce, but it's still there.

**Hon. Mr. Auld:** All I can say to you is that we're having discussions with the federal Ministry of the Environment who, in turn, deal with transport—

**Mr. Haggerty:** That's right.

**Hon. Mr. Auld:** —and it will be a matter which we will pursue further.

**Mr. Haggerty:** You drive behind a truck or a bus on the highways today, and if a little rain falls on your windshield and you try to clean off your windshield you just can't do it because of the oil film left on your window.

**Hon. Mr. Auld:** That doesn't always come from the vehicles ahead of you though. That happened to me a week or so ago. After we had pulled into a gas station to fill up and the fellow had wiped off the windshield with something—I don't know what he'd been using it for before, perhaps to wipe a dipstick—we had to stop again to give the windshield a good go with a washing fluid so that we could see out of it again.

**Mr. Haggerty:** That might be in one instance.

**Mr. D. M. Deacon (York Centre):** A maintenance job is done on the performance of vehicles, on diesels, isn't there? Do they get pulled off occasionally to see if their carburetion, or whatever it is—

**Hon. Mr. Auld:** I mentioned that a moment ago—we're in the process of dealing jointly with the OPP on the question of black smoke, and my understanding is that that is primarily a maintenance problem.

**Mr. Deacon:** I'm sure it's a maintenance problem.

**Mr. Haggerty:** Or the type of fuel they're burning. Sometimes you get a better quality of diesel oil or a lower grade, you know.

**Hon. Mr. Auld:** Yes, I've heard. I've also heard from trucking companies that trucks seem to do an awful lot of heating in the summer time.

**Mr. Braithwaite:** Madam Chairman, if I might ask the minister, with whom is he collaborating on smoke pollution from aircraft? Or is anything being done in that regard?

**Hon. Mr. Auld:** We are not involved because we don't have jurisdiction over aircraft or trains. I understand a good deal is being done in that field through, I assume, federal standards. I know that's the case in the States.



There isn't the problem, of course, with piston-engined aircraft as there is with a jet because a jet has to be up pretty high before the engine is really efficient. I gather there is a safety factor involved, in that as they have to take off at full power, and full power at ground level and while accelerating is not the most efficient use of the fuel.

**Mr. Braithwaite:** I won't take too much time now. I will get into this later, but I wanted to ask the minister if nothing was being done. I suggest that something should be done by somebody in his department with reference to the smoke pollution and that type of thing from aircraft.

Coming from Etobicoke, we have these things coming straight up and going straight over Rexdale. I'll go into that later but, the point is that at any time of the day you can drive along Airport Rd., stop anywhere in Rexdale and see long trails of this pollution coming out. And I'm amazed that you say nothing is being done with reference to it. There would appear to be much more air pollution from one aircraft than, say, 1,000 cars.

**Hon. Mr. Auld:** Perhaps Colin Macfarlane, who is our expert, can make some comment.

**Mr. Braithwaite:** I would appreciate it.

**Mr. Macfarlane:** The most offensive aircraft has been the DC9 aircraft and since late 1971 or early 1972 the federal government has insisted upon domestic aircraft being progressively fitted with after-combustors to get rid of the majority of the smoke. There has been a marked improvement, I think, in most DC9 aircraft, though I notice there are still one or two bad actors in the sky.

The US government appears to have followed more or less the same course and all new aircraft being designed, or just being brought into commission, are fitted with after-combustors to get rid of the black smoke.

**Mr. Braithwaite:** What I'm particularly concerned about, Madam Chairman, if I may ask through you, is whether the minister's department is not collaborating in any way with, say, its counterparts on the federal level to see what can be done to minimize the problem, particularly in areas adjacent to airports?

You're going to have the same problem in Pickering when the airport is built out there and I would strongly suggest that perhaps this is something that should be looked into. We shouldn't be waiting to see what the federal government does. I would suggest that

leadership could be shown by the minister's department in coming up with suggestions as to how it can be minimized.

I'm not going to go into that too much here now. I want to ask the minister, if I might, Madam Chairman—

**Hon. Mr. Auld:** I may say that we have been pressing the federal government about the problem. We're aware of it, but we don't have the jurisdiction to deal with it.

**Mr. Braithwaite:** I understand that. I'm talking about collaboration.

**Mr. Haggerty:** The answers are there.

**Mr. Braithwaite:** Could the minister tell me when was the last time there was correspondence or any overt co-operation between your department and the federal government?

**Hon. Mr. Auld:** I would say it goes on all the time.

**Mr. Braithwaite:** No, I said "the last time."

**Hon. Mr. Auld:** The last time any discussion—Mr. Macfarlane, could you, or any of your staff, remember the last time?

**Mr. Macfarlane:** I think the last time I discussed it with the people in Ottawa was about seven or eight weeks ago, sir.

**Mr. Braithwaite:** Seven or eight weeks, so it is a continuing thing?

The industries I wanted to ask the minister about were the Persista company, on 340 Rexdale Blvd., and Continuous Colour Coat, a division of Wimco Steel, on 1430 Martin Grove. I wrote to the minister in late April about these two plants. The general area of Jeffcoat Dr., Mancroft, Kearney, and Rosefair in Rexdale, in the southwest part of Rexdale adjacent to Martin Grove Rd. where some of these industries are located, suffers from air pollution. The minister wrote me on the 18th and he mentioned—I'm reading from his letter: "There is reference to the fact that malodours had been observed from three paint spray booths and two drying ovens."

This is with reference to Persista.

He says, Madam Chairman: "We have not observed any odours which are in violation of the Environmental Protection Act, 1971, and have received no complaints of malodours since July, 1971."

With reference to that particular industry, I wonder if Mr. Jackson—I believe he's the

individual looking after that in your department isn't he, Mr. Minister?

**Hon. Mr. Auld:** Who?

**Mr. Braithwaite:** Mr. W. H. Jackson. Is he the individual who would be looking after that?

**Hon. Mr. Auld:** I think it would be our inspector in the area.

**Mr. Braithwaite:** Oh, I see. I don't know who of your staff could tell me. What I would like to know is, I have received—

**Hon. Mr. Auld:** I am sorry. What was the name of the industry?

**Mr. Braithwaite:** Persista, 340 Rexdale Blvd., and Wimco Steel, 1430 Martin Grove Rd. Two industries. This Wimco Steel is a branch of Continuous Colour Coat Ltd.

**Hon. Mr. Auld:** I have got a scorecard on that one. Continuous Color Coat first I might deal with that while we are looking at the other two. I can just perhaps shorten this up. They paint sheet-metal strips.

**Mr. Braithwaite:** Is this Continuous Colour Coat?

**Hon. Mr. Auld:** Yes. And then they cure them in two paint ovens. There are a lot of complaints about the objectionable organic odours from the low stacks which vent the baking oven. Under section 8 of the Air Pollution Control Act, 1967, a survey was done and a report with recommendations was served on the company April 23, 1970. The company appealed to the Air Pollution Advisory Board for a review and the appeal was heard Dec. 17, 1970.

The board concurred with the recommendations that we had made in the original report but they varied the timings we had suggested. They lengthened the timing. The ministry's order was delivered to the company, March 2, 1971, and it required correction of the problems by Nov. 1, 1971. The company again appealed the order on June 4 and this was rejected on June 23.

The company installed a fume incinerator in October 1971, to control the emissions. The equipment, I am informed, has not functioned on a continuous basis since its installation due to lack of experience on operation parameters. We served a violation notice on them on June 20, 1972, a second violation on Sept. 6, 1972, and a third on Sept. 21.

Charges were laid with respect to the violation. Date for trial was set for Jan. 25.

It was adjourned until April 12. Since then we have served further violation notices on them. I can't tell you offhand just where that stands at the moment.

**Mr. Macfarlane:** There was a conviction on one.

**Mr. Braithwaite:** Do I understand then, Mr. Minister, that your letter of May 18 refers to the fact that the company has been rather reluctant to take further abatement measures, and three violations of the Act have been recorded within the last year? This is the same thing you are talking about?

**Hon. Mr. Auld:** Yes. I am informed that they were convicted on—

**Mr. Macfarlane:** —on the first charge and they were fined \$2,500.

**Mr. Braithwaite:** How much.

**Hon. Mr. Auld:** A fine of \$2,500.

**Mr. Braithwaite:** Yes. Now what I want to ask the minister about is the last part of the sentence of this paragraph in your letter of May 18. It says: "We may proceed to prosecution for the two outstanding violations." Can the minister tell me just what steps have been taken, whether or not his department intends to proceed with the prosecution, and if not, why not?

**Hon. Mr. Auld:** I will just ask Colin. Where do we stand with those?

**Mr. Macfarlane:** They are with the legal services just now. But barring any hindrance, which I can't see at the moment. I don't see any reason not to go to court. So I recommend that course.

**Mr. Braithwaite:** Do I understand then that the minister's department will be proceeding with these prosecutions?

**Hon. Mr. Auld:** As Mr. Macfarlane says, we have submitted a recommendation to our legal branch to prosecute. We know of no reason why we shouldn't prosecute unless the legal branch says we haven't got a case.

**Mr. Braithwaite:** I see. Do we have the information on Persista?

**Mr. Macfarlane:** Not immediately sir, but I do know the industry, and it is roughly next door to Continuous Colour Coat. In the past, if my memory serves me correctly, the two have often been confused with each other. It also strikes me that since the last time I went to Persista some changes had been made. I

don't recollect any substantial malodours stemming from that plant in the course of the last year or two. Sometimes Continuous Colour Coat and Persista have been confused with each other.

**Mr. Braithwaite:** I see. Perhaps that might be so because the reason I wrote the minister originally in April was that I had received a letter from a Mr. and Mrs. G. Bambrick of 47 Rosefair Cres., in Rexdale. They pointed out that with Persista the pollution was caused primarily by a heavy-duty press pounding all night. Perhaps they have got it confused. No, that would be Colour Coat—it is the one with the odours. Perhaps this isn't the right time, but while we are talking about it you might mention what steps are being taken with reference to that problem. Then we can leave Persista.

**Hon. Mr. Auld:** You mean Continuous Colour Coat?

**Mr. Braithwaite:** No, no. The all-night pounding of the press. That complaint. This is just one; the letter from Mr. and Mrs. Bambrick is just one of many complaints that I have had about it. I might say, Mr. Minister, that in March I circulated a questionnaire throughout Rexdale and the incidence of reference to problems from these particular industries was very high in that area. I am only reading the letter from Mr. and Mrs. Bambrick, but many people wrote in complaining about the same problem. The name Persista came up on many occasions.

This is why I wrote to you on April 17, using Mr. and Mrs. Bambrick's letter as an example, because it is representative of the problem in that general area—the Jeffcoat, Kearney, Mercury Rd., Aquila Ct., Rosefair Cres. area. That is the southwestern portion of Rexdale. They made extensive reference to Persista. That is why I wanted to find out during these estimates whether or not anything has been done about Persista? I see what has been done about Colour Coat.

**Hon. Mr. Auld:** That is the noise problem, is it?

**Mr. Braithwaite:** Pardon me?

**Hon. Mr. Auld:** The noise problem from the press at Persista?

**Mr. Braithwaite:** Well, about the problem there. We could leave it, but I thought we could clear it up right now and be finished with it.

**Hon. Mr. Auld:** I can give you a fast answer on that. At the present time we have no regulations to deal with that problem. When we get into the whole noise field no doubt I will give a rundown of just where we stand in the noise field. I have made a couple of speeches about it and I have mentioned it in the House. But I think Fred Burr still wants to talk about air emissions. So the fast answer is that at the present time we have no regulations to deal with that problem, although we have some stuff in the works.

**Mr. Haggerty:** In the fullness of time, is it?

**Mr. Braithwaite:** In the fullness of time, eh?

**Hon. Mr. Auld:** Well, at some time. What was it somebody said the other night—"It will be six weeks or eternity." And I said it will be somewhere in between.

**Mr. Braithwaite:** Somewhere in between?

**Mr. Haggerty:** You said that last year.

**Hon. Mr. Auld:** We have done quite a few things since last year.

**Mr. Braithwaite:** Before I close, could the minister's assistant tell me whether the air pollution problems from Persista have been cleared up?

**Mr. Macfarlane:** I believe so. I can't recollect any malodours stemming from that place for some considerable time, sir. And, subject to check, I think the answer is yes.

**Mr. Braithwaite:** Well, could I ask then, Mr. Minister, if this could be followed up to see whether—

**Hon. Mr. Auld:** I will let you know.

**Mr. Braithwaite:** Because I have been in receipt of correspondence on that matter.

**Hon. Mr. Auld:** The problem actually, and I think everybody here appreciates it, is that there are several thousand orders. We have every significant industry in the province on a programme. It is impossible for me and it is pretty hard for the senior staff to give you an up-to-date rundown on anyone without digging into the files a bit. But I will get you the latest word on Persista as far as air emissions are concerned. If we had had a lot of complaints I think we would know about it here.

**Mr. Braithwaite:** In closing, I would also appreciate being advised when further action is taken against Continuous Colour Coat so



that I may notify the people who are involved. Thank you.

**Hon. Mr. Auld:** I'll let you know.

**Madam Chairman:** Mr. Bounsall.

**Mr. E. J. Bounsall (Windsor West):** Yes, I'd like to speak for a few moments on the continuing saga of Windsor Packing Co. Ltd. on Tecumseh Rd. W., Windsor. Just a shade over a year ago I asked you a question, you may recall, Mr. Minister, in the House as to why the air management branch continues to say that everything possible has been done to eliminate the terrible odours emanating from this plant.

**Hon. Mr. Auld:** I think you had to ask me twice, because in the first one either I got the firm wrong or you did—

**Mr. Bounsall:** I believe I called it Essex.

**Hon. Mr. Auld:** Yes, and we couldn't find anything about that one.

**Mr. Bounsall:** I should have said Windsor Packing.

**Hon. Mr. Auld:** In the other one, it turned out that people kept leaving the doors open.

**Mr. Bounsall:** Pardon?

**Hon. Mr. Auld:** The one we established as the one you were concerned about, as I recall, turned out to be a case of someone leaving the doors open.

**Mr. Bounsall:** Well, by and large this is still continuing. The reply from you was correct in the respect that a scrubbing installation had been made, and if you have sufficient water running through it, with sufficient deodorizer or detergent in the water, the problem seems to be able to be completely eliminated.

One of the most vociferous ex-complainants, as you referred to them, has been authorized by the company to continue surveillance. He has certainly found evidence, but whenever he approaches the plant, the security guard notices him, allows him in, and by the time he has got to the back, everything is operating fine and the odour has stopped completely. He's not always around, though; and when he isn't around, the odour continues for an hour or an hour and a half, mainly at two particular times of the day.

A rendering process is involved in this particular place where the odour is coming from;

they kill their hogs in the morning and their beef in the afternoon, or vice versa. At the end of that particular process, all the waste is put into a cooker for slightly more than an hour. Then it's shovelled, very hot and steaming, into an open room; and it's the effluent from this room that is causing the odour.

There is a fan that pulls the odour directly into the tower or smokestack, whatever you want to call it, which the scrubber seems to eliminate completely if it is on and working. When the warm weather comes—

**Hon. Mr. Auld:** The boys open the doors.

**Mr. Bounsall:** —there is no question, it appears, that workers simply prop the door open, and the scrubbing is completely ineffective. Whenever one has tried to get either Mr. Dave Edwards, the man in the neighbourhood who is authorized by the ministry to come in and make a check, or myself—and several other people in the area have tried as well—they are met with total frustration; they are told simply that everything possible is being done.

I finally wrote to Mr. Drowley on July 24, outlining the days from June 1 to July 18, during which there were 13 recorded instances—mainly around noon hour and the supper hour, anywhere from 4 to 7:30—of the odour occurring. Mr. Drowley thanked me for the very detailed letter and forwarded it to Mr. Macfarlane, the director of the air management branch, and added that the operation would be kept under very strict surveillance.

In talking to Mr. Edwards, I have urged him, once the warm weather hits, to go down there for a couple of weeks, if need be, and sit there from 4 to 7, which is the second rendering period. That's when the day is the hottest; that's when the door is going to be left open. That way he could simply catch the odour, pop over and get at the company through the back of the property. He wouldn't have to go through the main gate, he'd get there before the door could be shut and he'd catch them with the door open.

As far as I can determine, this has never occurred. I'm not often available either to go over on a short notice, but last September I did get a call one afternoon about 5:30. My car wasn't available, so I took a taxi up. And there was no question that the odour was as strong as the residents had always told me that it had been in the 1200 and 1300 block on Oak Ave. As I say, this was around 5:30 or 5:45 and at that point, of course, there was no one in the air management

branch office in Windsor you could phone to get on the spot.

It's quite clear to me that the equipment is probably adequate, if it is operated properly and the outside door is kept shut, to do the proper job. It's a case of impressing on Windsor Packing, by the branch catching them with the door open or with the scrubbing at half water pressure—the valve also has been found by Mr. Murphy at times to be only half open in terms of water volume when he has checked the scrubbing—that the whole odour can be completely eliminated.

When the cold weather comes, of course, there is much less need to have that door open. As for the dates, I haven't just taken Mr. Murphy's data; a Mrs. Lane keeps careful records; and there is a Mr. Scott, a retired gentleman, upon whose mind this sits more heavily than some of the others because he is there constantly, and whom Mr. Edwards no longer will even talk to.

There were two or three other people I knew from other contacts who have moved into the area; they have kept records, and I have cross-checked with them. You can almost take the warm days, when the city of Windsor reaches a certain temperature, say that is when it is going to be, sit back and wait—and there it is.

During the winter, there were six instances in the month of October last year, three in November—November 6, 7 and 8—then the weather starts to get colder, and there was one instance on Jan. 18 and one instance on March 2. Again, all these instances were around the supper hour.

What is interesting is that the Environmental Law Association in the faculty of law at the University of Windsor, staffed mainly by students in the law faculty, took up the case on behalf of the area residents and did a thorough investigation of possible legal action they could take.

In the first week in April, two of the students, Mr. Peter Farmer and Miss Priscilla Platt, paid a visit to Windsor Packing and outlined to company officials exactly the action which they could take, one under bylaw 434 of the city of Windsor, another possible action under the Environmental Protection Act, as well as the possibility of the residents bringing a private nuisance action, depending on how many were interested, in either the small claims court or the county court.

Since then, Windsor Packing has not had one day of pollution. In spite of warmer days since March 2, two students from the En-

vironmental Law Association, have been able to convince Windsor Packing, where the air management branch couldn't—

**Mr. F. A. Burr** (Sandwich-Riverside): They should hire those two fellows, I would say!

**Mr. Bounsall**: —that they should do something about the continued odour from that plant. Windsor Packing, as a result of that visit, also has added 5 ft more on to its tower.

I think it's very regrettable that two students from the Environmental Law Association can go in and cause this company—at the moment, at least—to clear up this air pollution when the branch was not able to and, taking the total picture in retrospect, did not seem very interested in so doing.

**Hon. Mr. Auld**: Well, all I can say is, good for them and good for both the civil law and the municipal bylaw!

**Mr. Bounsall**: Well, they didn't take any action; they just told them that they would. The 5 ft was added pretty quickly to the tower, and presumably the plant manager is checking very carefully to see that nothing happens. However, we are just approaching the warm season. Today might be an ideal day down there if their visit was a little longer away than it was in early April, and not two months ago. I would suspect that the whole thing is going to start up again this summer when the memory of their visit fades and the possibility of suits is not as fresh in their minds as it was six weeks ago. What is your ministry going to do? That is my question.

It's clear to me that if they want to catch them and want to bring a suit—and it appears that the threat of a suit has caused quite a bit of improvement in this plant—they could do it by sitting there for a couple of weeks at any time between 4 o'clock and 7 o'clock at night on any warm day we get. Why can't that be done by your branch in Windsor?

I know it's the supper hour and I know they must quit work at about 4:30 or 5 o'clock but if you're interested in seeing that the pressure is kept up on Windsor Packing either to operate equipment properly or to see that the door to this rendering room is kept shut that's the action which needs to be taken.

**Hon. Mr. Auld**: The only thing I can say is that we had the place under observation for a total period of some eight hours. We issued a violation notice in August last year.

Our legal branch said that we didn't have a case and so we didn't proceed with it. We can't initiate civil actions on the part of citizens; I know you recognize that, just like boundary disputes and a whole lot of other things.

It may well be that in this particular kind of problem, which is basically a management problem within the operation, I would say, they have taken the steps we require to meet our standards, provided they run them properly. We just don't have enough people to have somebody sitting there all the time and I don't suppose we ever will have.

I would say good for the students and good for the citizens in the area because, by and large, it's like many other things, there are many remedies open to people outside the statutes that we administer.

**Mr. Burr:** Yes, but they're expensive ones.

**Hon. Mr. Auld:** Not if you have a group of volunteers who are prepared to act. One of our problems, of course, is getting good witnesses. People will phone up and complain and when you talk to them sometimes they say, "Well, I just got home and my wife told me," or "I didn't really see it but—" or "I'm not sure that it came from there." There is a whole host of things and we are not anxious to go to court unless we are reasonably sure that we're going to get a conviction.

**Mr. Haggerty:** Ted is a good witness.

**Mr. Bounsall:** What would constitute—well, I was there one day, right? I'm not authorized on the property and what have you. I don't jump any fences to catch the open door.

**Mr. Reid:** Take Morty with you.

**Mr. Bounsall:** What would constitute proof of violation? One of your air management branch seeing that door open at a time when the residue was smoking and steaming away?

**Hon. Mr. Auld:** I assume so. I'm not a lawyer. Perhaps Colin Macfarlane can tell us.

**Mr. Macfarlane:** The courts have usually found, in recent cases, that in matters of odour and discomfort to people they require participation in the discomfort by the people in the neighbourhood. It hasn't been sufficient in matters of malodour to have the air management branch inspectors only as witnesses. There has to be a local input.

**Mr. Bounsall:** There is plenty of local interest. There are three people in the com-

munity, on the 1300 block of Oak Ave., who are keeping careful records of times of starting and times of completion, in terms of when the odour occurs.

On July 18, 1972—I don't know what sort of evidence you want—the same man, Tom Murphy, to whom I've referred as being accredited by the company itself to go in and have a look, with pollution from 6:30 to 7:30 very strong that evening, was actually sick to his stomach on entering his backyard at 6:45. The actual sickness was witnessed by people other than members of his family. I don't know what firmer evidence than that you need for a court of law, that there is odour there.

**Hon. Mr. Auld:** Has he told us that?

**Mr. Bounsall:** It was in the letter that I wrote.

**Hon. Mr. Auld:** I'll tell you what I'll do. If you will write me a letter with the names of the people who are keeping the records, I'll undertake to have our people go and see them, sit down with them and see what is required in terms of evidence. As soon as we get sufficient evidence, we'll prosecute, assuming that this happens again.

**Mr. Bounsall:** Yes. It's been okay for six weeks now. Obviously the company has tightened up and really that's all you need.

**Hon. Mr. Auld:** I couldn't agree with you more.

**Mr. Bounsall:** If the company will keep the door shut and the equipment operating, there is no problem in the area. It's a case of impressing on the company that this has to be done.

**Hon. Mr. Auld:** So often I have found in looking into these matters that individuals will phone us in some cases or write to us. We send somebody around to see them and they say, "Oh, I wouldn't go to court, you know, I haven't got time," or something like that.

That happens more frequently than you might expect particularly after reading a letter from somebody and you can see them going right through the ceiling. Then it comes—or it used to come—as a surprise to me when I would direct this through the machinery and get a report back saying So-and-so was visited on April 8 and declined to appear in court. As Mr. Macfarlane says, we require some corroborative evidence and not just a letter from somebody—it's got to be first-hand.



**Mr. Haggerty:** If conditions are that terrible outside the plant, what conditions exist inside the plant for the employees?

**Mr. Bounsall:** I have to shoot you down there but in this particular plant the odour gets outside; it doesn't stay inside. The rendering room itself is shut off in one part so there's no leak through to the rest of the plant provided you keep one other connecting door shut. Presumably they do. It gets outside.

There's one other thing with respect to the visit the students made in the first week of April. They had Tom Murphy along with them. The plant manager, Bert Pasner, appears extremely co-operative whenever there's been a visitation both by myself last summer and by this group.

What they agreed at that point—Pasner admitted it to the two students; Murphy had it explained to him and agreed that that was a possibility—was that the odour, in some instances, is coming from a different part of the plant, other than from the rendering room. If that was admitted to these two students and Tom Murphy admitted that possibility—Pasner was doing the talking, period—I would suggest that your air management branch have a look at that other part of the plant—I'm not clear as to what part of the operation this is—which could be giving rise to occasional pollution which has not come from the rendering room.

**Hon. Mr. Auld:** Well, it's curious that that has stopped, too, isn't it?

**Mr. Bounsall:** Yes, it tends to make the suggestion that it's also coming from another part rather faulty. The only piece of odour pollution equipment they have in the plant is the one that connects with the rendering room. There's been a suggestion which four people, at least, know about, that there is another area of that plant which could be offending. I agree with you that it sounds as though it isn't now.

**Hon. Mr. Auld:** I must say we can inquire about that, too, but from what you have said and from the report I have, it would seem strange that it would be coming from another part of the plant when, at the time this equipment was installed—I'm sure we were keeping an eye on the thing to make sure that it worked because in most of these cases it takes a little while to get the gadgetry to work properly—assuming, as we must, that the equipment in the rendering room was operating properly, we weren't aware of another source within the plant.

**Mr. Bounsall:** Yes. My conversation of a couple of weeks ago is coming back to me now. The suggestion was that it came from the material, which was loaded into the cooker for rendering, as it was piled up waiting to be tossed into the cooker. This is a fairly low-temperature situation, room temperature at most, for the stuff that's being rendered. I suspect that it isn't a very likely source of high odour pollution. It's within the company and it's fresh.

**Hon. Mr. Auld:** This is fresh material. It's only when it's heated up that you start getting the problem.

**Mr. Bounsall:** I would agree that the suggestion that the odour is coming from that source is probably not a good one. It is still a rendering room problem.

**Hon. Mr. Auld:** You are familiar with the operation obviously. They don't leave stuff piled up over the weekend or anything.

**Mr. Bounsall:** No, they don't slaughter on the weekend, right. It is rendered right away. The whole problem comes when they shovel out the cooker. It is sitting there steaming hot and they do shovel it out each time after it is used—twice a day around lunch hour and around supper hour—and if your system isn't working the area residents get it.

**Hon. Mr. Auld:** It certainly sounds like a delightful process.

**An hon. member:** Inside and outside.

**Hon. Mr. Auld:** Well, if you will do that.

**Mr. Haggerty:** It's an open and shut case.

**Hon. Mr. Auld:** As far as those individuals are concerned we will see them and indicate what we would need in the way of the information they should gather. If it starts up again we will be in better shape to deal with it under our legislation.

**Mr. Bounsall:** Okay.

**Madam Chairman:** Does that conclude for you, Mr. Bounsall?

**Mr. Bounsall:** Yes, at the moment.

**Madam Chairman:** Mr. Havrot.

**Mr. E. M. Havrot (Timiskaming):** My turn, good. Madam Chairman, fortunately we don't have a pollution problem up in northern Ontario, but I do feel there is one problem that really concerns me. You've got a real bunch of eager beavers up there as far as

trying to enforce the Air Management Act is concerned.

**Mr. Reid:** Send them up to northwestern Ontario.

**An hon. member:** If you've got no problem, what are they doing up there?

**Mr. Havrot:** No, in our particular case, this is becoming a tremendous financial burden on the small communities. You take for example in Kirkland Lake, to run our dump cost us something like \$5,000 last year. The landfill programme is going to cost us well over \$50,000 a year, and the engineer refuses to give any exact figures because he figures it will be considerably higher.

The main argument that your people give us is that there is a bit of smoke coming out of the dump. Everything is recycled—practically everything that could be sold, like cardboard and metals and so forth are recycled. What's left is burned. The smoke that comes out of that dump doesn't compare anywhere near with the smoke from one factory stack that you have here in Toronto.

What I'm concerned about is the tremendous cost of going into the landfill programmes just because of this pollution problem which I consider very minor in northern Ontario. You are trying to apply the Act across the province.

I know that people in southern Ontario have a tremendous problem with air pollution, but up in northern Ontario it's a different situation. We don't have the factories to sustain the extra costs of maintaining a municipality, so therefore the taxation base is mainly in the mining revenues. Southern Ontario has its residential and commercial taxation.

So this is really imposing a tremendous burden on the people in the north, in communities where we don't have the privilege of having our air polluted. Because when you have polluted air, quite obviously men are going to work and having jobs, and this is something that we unfortunately don't have. I just wonder, Mr. Minister, if you could comment on this for us.

If there is anything you can do to maybe relax some of the strict regulations that you have.

**Hon. Mr. Auld:** We are slipping into the next vote which is waste management. The only thing I can say at this moment is that we are aware of the burden on some municipalities to meet our waste management re-

quirements which relate of course to air quality. It is obviously very difficult to try to set up a separate standard for every location and perhaps the answer in this case is a study, which we will share, to look at an area system.

I apologize, Madam Chairman, for getting off air, but the cost problem applies to a lot of municipalities in the southern part of the province as well. Perhaps we can go into that a little further when we get to the next vote.

**Mr. Havrot:** Sure. Well, of course they have a better industrial base too, which as you were saying in southern Ontario—

**Hon. Mr. Auld:** I can take you to the great township of North Crosby in my riding which does not have a great base. It's got a big dump, and a lot of problems. It can't be a real problem because we haven't data here on the air pollution problem at the moment. But perhaps we can pursue it a little further under the other end.

**Mr. Havrot:** One more question, Madam Chairman and Mr. Minister. I note there is a 27½ per cent increase over last year's estimates. Are you enlarging your department to enforce the Act?

**Hon. Mr. Auld:** I think a good deal of that has to do with noise, which we are coming to next.

**Mr. Havrot:** No, this is strictly under air management, Mr. Minister.

**Hon. Mr. Auld:** Noise is in this vote—

**Mr. Havrot:** Oh, I see.

**Hon. Mr. Auld:** —because noise is carried through the air.

**Mr. Havrot:** Fine.

**Mr. Deacon:** Madam Chairman, I wanted to ask the minister if he was—

**Madam Chairman:** Excuse me, but if Mr. Havrot is through, then I have Mr. Burr and Mr. Reid. Are you through, Mr. Havrot?

**Mr. Havrot:** Yes, I am, thank you.

**Madam Chairman:** Mr. Burr.

**Mr. Burr:** Thank you, Madam Chairman. I want to talk about two or three aspects of air pollution. I think I'll start off with the air pollution index. I believe I heard the other evening somebody indicating that Toronto's

air pollution index is a fairly consistent four, five, six, seven. Was that statement correct?

**Hon. Mr. Auld:** That was one of the members who indicated that's what he had heard on the air this year and last year.

**Mr. Burr:** Is that approximate?

**Hon. Mr. Auld:** I can say in a general way that the reduction is comparable in Windsor and Hamilton where we have constant monitoring as well. We run into some higher readings, as I recall, in Windsor, depending on what's happening in Detroit. We have had a breakthrough there this year in that when we had a high reading a while ago and we notified, I guess it was Wayne county, Detroit Edison and somebody else cut back voluntarily.

I think you can say, and I'll ask Colin Macfarlane to give you the detail, there has been a consistent improvement in the air quality in Windsor. As far as the number of occasions when the index went above 32, it was reduced rather dramatically from the year before. Can you give us a rundown, Colin?

**Mr. Macfarlane:** Maybe the best way to do this is to send a complete report of air quality in Windsor for the last year or so to Mr. Burr, that would—

**Mr. Burr:** Yes, I got reports for a month or two. But what I am driving at is—that in Hamilton, where I have the figures, the index has been going from a low of three or four up to a high of 24. It seems to go up and down between there.

Dr. Cecilioni of whom you've heard before, made a study. On different occasions—in March, October and December in 1972—he plotted the air pollution index and then he made a study of the number of patients who were treated in the emergency room of the Hamilton General Hospital and of those who were admitted to the hospital for respiratory illnesses. Allowing for a two or three-day lag, the two charts which you can see, Mr. Minister, are very similar.

Now is it a coincidence or is it a correlation? This one that I have shown you is for the month of December, 1972; this one is for the month of October. I don't seem to have the one for March with me. The point is that if you look at these charts you would say that the safe level or the acceptable level, because we don't say that any level is really safe, should be around 12, rather than what we have been taught to believe, 32. Every time the index went up in Hamil-

ton to 20 and 24, then two or three days later the number of patients went up correspondingly.

**Hon. Mr. Auld:** What are we talking about in terms of people? Did it go up two people or three people or what?

**Mr. Burr:** No. The numbers of people in December ranged from a low of five, when the index was down at five, up to 22 a day or two after the index had been 24.

**Hon. Mr. Auld:** What were the other conditions—weather, temperature, and so on?

**Mr. Burr:** I haven't those details. I should imagine that the direction of the wind would affect the monitor.

**Hon. Mr. Auld:** I was thinking more of whether it rained. Was there an awful snow-storm? Did it get very cold? I think perhaps what we might do, as Dr. Stopps is here today, is that he might have a chance to take a look at those and comment. I just say that the reason I asked the question I did is that in England, particularly in the days of the very severe smog they used to have, any time there was a big one there was a great deal more illness and a higher number of deaths of people with respiratory diseases. For a long time people associated the illness or the death with that incidence.

Then they had an epidemic of flu or something and a great many serious illnesses and deaths about a month before one of these great smogs. After the smog they checked and found that there was no increase in incidence of illness or death. They came to the conclusion that there were a number of people who were about to be ill and this was a factor, but weather conditions were the factor.

**Mr. Burr:** It is what finished them off.

**Hon. Mr. Auld:** They were going to be ill sometime. At the end of the year, the interesting thing in both those years was that the average across the 12 months remained the same in relation to population as it had been the preceding year or years. While there was an immediate short-term effect, it didn't change the average over the year. I don't know whether that same theory would apply here that there were other conditions, in addition to the index, that caused more people than usual to go to hospital. Perhaps Dr. Stopps would like to take a look at the charts and see if he can answer Mr. Burr's question?



**Dr. G. J. Stopps** (Chief, Environmental Health Effects Service, Ministry of Health): I think, Mr. Minister, you have touched on most of the important points.

**Hon. Mr. Auld:** Could you come up to the microphone, Dr. Stopps, so that you can be taken down for posterity?

**Dr. Stopps:** I am not sure my remarks are worthy of that exactly. As I indicated, I think you have touched on most of the points, that this relationship between air pollution and hospital admissions or sickness, morbidity particularly, rather than mortality, is not a simple matter. It is usually thought that those conditions which are correlated with pollution, climatic conditions as you mentioned, certainly play some part, and it isn't just straight pollution.

In some instances, although not in all, there has been this compensatory sort of effect that you also mentioned, that often in the severe instances there has been an increase of illness, or an increase in the severity of illness of people already sick. You are dealing with people who have chronic respiratory and chronic cardiovascular disease, where the scales are tipped by the increase in either the pollution or a combination of pollution and the weather circumstances.

So I would suggest that pollution may play some part, but it is not just a straight one-to-one relationship. It is felt by most people that the weather is an important factor because there have been a number of studies in which if you plot, as John Goldsmith has done in Los Angeles, the incidence of hospital admissions just against the temperature, you get exactly the same type of relationship, even though it may not be followed by the changes in air pollution in that particular instance.

**Hon. Mr. Auld:** Thank you, doctor. Does that answer your question?

**Mr. Burr:** The weather is something we can't do anything about. It is the combination of the pollution and the weather that sends the index up. People who are prone to or who have been worn out by air pollution eventually cave in, and they cave in on one of these ups in the index, or a day or two after the index has been registered high.

The pattern is here on these three months. Dr. Newhouse of St. Joseph's Hospital in Hamilton had carried out a similar study between July and December of 1970 in Hamilton and that study tends to confirm the correlation. Dr. Newhouse's study involved

250 admissions to the hospital, which is located in the southern and less polluted area of the city. The largest percentage of those who were admitted came from the heavily industrialized east end and northeast end of Hamilton.

That is one thing about the air pollution index I have been trying to persuade this ministry, and I think the Ministry of Health, to have some student make a study in Windsor of the hospital admissions for respiratory ailments and the air pollution index to see if there is the same coincidence or correlation in Windsor, too. This is just a statistical study. It merely takes an intelligent student with the time to do it. It is not a technical matter.

Another side of the same subject, Dr. Cecilioni made a study of the various areas of Hamilton which you can see marked out on this map. The very black marks are the industrial part of Hamilton. The area around it is the area in which the lung cancer deaths were 65 per 100,000. The area surrounding that—that is, some distance away from it—had 23 lung cancer deaths per 100,000, and, farther removed—I suppose this is up on the mountain—the lung cancer rate was only 12 per 100,000.

Now 65 per 100,000, which is what the people around the factories, around the steel plants, had, is very high. I think only in the Midlands in England, and perhaps one or two other steel centres in the world, is that height reached—65. Windsor is very similar to Hamilton in this respect because it is an industrialized city, but it is downwind from the steel plants across the Detroit River—Great Lakes Steel. Therefore, Windsor is what you might call a steel city because, at least as far as the atmosphere is concerned, we get most of the pollution from the stacks there.

If you make a comparison over a period of years, between Windsor and London, two cities of almost identical population you find these results. This is for a five-year period, 1966-1971. These are cancer deaths. The first figure refers to the mouth where London had 25 and Windsor had 44; oesophagus—London 25, Windsor 43; trachea, bronchus and lung—London 236, Windsor 312; and bladder—London 52, Windsor 74.

If you take the other comparison between Hamilton and Ottawa, two cities that are relatively the same size, each just under 300,000 in population, you have a very similar comparison. The larynx—Ottawa 14, Hamilton 21; trachea, bronchus and lung—Ottawa 353, Hamilton 502. For the stomach

—Ottawa 148, Hamilton 215. The bladder—Ottawa 77, Hamilton 117. And the prostate—Ottawa 85, and Hamilton 113.

What I would like to see is a study made in Windsor, similar to this one. This one was done by postal zones as a convenience. And in Windsor we have two postal zones, Windsor 10 and Windsor 40, which are in the west end of the city on the Detroit River; not too far distant from the Great Lakes company, where all the steel is manufactured. This again would be a simple matter for any intelligent student to do. With 8,000 students working this summer in Ontario on various projects, it seems to me that this project would not be the most foolish one that could be arranged. Is there any chance that you could use your influence to see if we could get this kind of study?

**Hon. Mr. Auld:** We'll take a look at it; whether it should be done by us or by Health would be another question.

I would just say this though. In any statistical correlation there are an awful lot of other factors that can bear on it. I know that perhaps it does not apply in this particular instance, but a lot can happen in an area and which can be misleading on the surface. For instance, if you have a hospital that serves a very large area outside its location, compared to the opposite situation somewhere else.

I remember last year one of the interesting things that came up. I think it was when Dr. Fitch was here. It surprised me, and I have just forgotten all the details. But the cleanest air around the UK is in the Channel Islands, and they had the highest rate of lung cancer. However, they also had the largest per capita consumption of cigarettes.

There are an awful lot of factors that are linked in these things. And there is another bit—and I wish I had it with me—in a book that is I think required reading, called "How to Lie with Statistics."

**Mr. Reid:** You have all read it; every cabinet minister.

**Hon. Mr. Auld:** Well I try to avoid the pitfalls. The mention made about correlation was a valid one. It had to do with the rate of increase in Presbyterian ministers' salaries and the profits of rum distilleries, and they both went up at the same rate. The question posed was: Do the Presbyterian congregations own the distilleries; or do the distilleries own the clergymen; or does one have nothing to do with the other?

**Mr. I. Deans (Wentworth):** What was the answer?

**Hon. Mr. Auld:** It was left unanswered.

**Mr. Deans:** What do you think the answer would be?

**Hon. Mr. Auld:** I think one had nothing to do with the other.

**Mr. Deans:** That just shows your power of deduction.

**Hon. Mr. Auld:** If it had been Scotch whisky, I don't know.

**Mr. Burr:** But the government does make many statistical studies, isn't that true?

**Hon. Mr. Auld:** Pardon?

**Mr. Burr:** The government does make many statistical studies, some of which are never used.

**Hon. Mr. Auld:** And some of them are not—

**Mr. Burr:** You could make the same criticisms about them all. But my point is that if you made a study of this kind and you found that in the west end of Windsor, nearest the steel mills of Detroit, lung cancer and various other forms of cancer were the worst, then that would give you a weapon when you are talking to Michigan. You could say: "Look, can you get this air pollution cleaned up faster?"

**Hon. Mr. Auld:** Actually, in the discussions that I have had with people from Michigan—and I haven't had that many, but the staff have had a great many—I would say that the people we talked to are equally interested. Part of their problem is jurisdictional, and their problems with their legislation and a great many appeals to the courts—and a lot of things like that.

But I am rather pleased that we have a sort of unofficial working arrangement. And of course now that the IJC is involved with reference to air, this may perhaps have an effect of speeding things up on the other side. Although I must say that if I only had the choice of one or the other, I would prefer spending our main effort and our responsibility in inspection and enforcement and programmes and cleanup. Because no matter what the causes of the things that you mentioned, we are aware that there is still air pollution and that we are pushing people to meet their targets. I don't know but it won't surprise me at all, as I have said before, if



when we get some of the obvious problems cleaned up, we find that they have been concealing other ones which up until that time were minor—and we are going to have another go-around at them.

**Mr. Burr:** Well, I would hope that you would give this consideration, because, as I say, one or two students could spend the summer on it; and it might be as worthwhile as many other things that the students might possibly be set to do.

Have you any report on the air pollution at Erco? The land drainage committee flew by it a couple of months ago and it was the dirtiest place we saw between—well, it was the dirtiest place we saw. We went around the lakeshore, right to Windsor. The reason we didn't see any smoke at Windsor was that it was so fogged in we had to land and go on again. But all along the lakeshore, this was the one place that stood out. We had been given to understand that Erco had been cleaned up—but it's filthy. The smoke is filthy.

**Hon. Mr. Auld:** Excuse me just a second until I consult. What sort of a plume did you see?

**Mr. Burr:** Oh, big and dirty. I can't describe it. It was just shocking to us. I think Ray Haggerty was with us.

**Hon. Mr. Auld:** Well, our engineers say that there is no problem there.

**Mr. Macfarlane:** They have stopped production.

**Mr. Burr:** Perhaps they were burning their papers.

**Hon. Mr. Auld:** I'll look into that and see if I can find out for you.

**Mr. Burr:** I came across a new procedure for removing silicon tetrachloride from the waste gases of the superphosphate plants—and it certainly looked as though they needed it down there. I won't take the time to give the reference, but perhaps I could speak to somebody later and see if they are familiar with this particular procedure.

**Hon. Mr. Auld:** Either Mr. Drowley or Mr. Macfarlane.

**Mr. Burr:** Yes, thank you.

**Madam Chairman:** Have you finished, Mr. Burr?

**Mr. Burr:** I have two or three other things. On May 9 we had a report that the federal

Environment Ministry studies in Toronto, Vancouver and Montreal had uncovered automobile lead pollution in the air high enough to produce adverse physiological effects in policemen, taxi drivers, municipal workers, commuters, and others who spend considerable time on busy downtown streets, especially during rush hour. Toronto apparently was the worst, worse even than Montreal.

Your ministry was going to make a study of the lead content in workers of this kind, sanitation workers or others who were exposed to the streets for many hours a day. Have you any report on that study?

**Hon. Mr. Auld:** Yes, and I think because of the confusion that sometimes arises, the report in the press was not entirely accurate. The 24-hour standard, which is based on babies in arms and people with respiratory diseases and so on, is 25 for healthy people in work—

**Mr. Burr:** What are you talking about? Twenty-five what?

**Hon. Mr. Auld:** Twenty-five micrograms per cubic metre.

**Mr. Burr:** In their lungs or their blood, or where?

**Hon. Mr. Auld:** In the ambient air.

**Mr. Burr:** You mean that is the greatest—

**Hon. Mr. Auld:** Over a 24-hour period.

**Mr. Burr:** —tolerable level?

**Hon. Mr. Auld:** That is tolerable for everybody.

For people at work who seem to be healthy, for an eight-hour day the standard is 150 micrograms per cubic metre. Tests have been made by the health people on policemen and taxi drivers and so on, and they indicate that the blood lead levels, as would be expected, are somewhat above the levels expected for people from rural and urban areas not exposed to continued considerable highway traffic. However, they were still within the range of values that are considered to be normal in an urban population, and these levels are not considered to be hazardous to health.

The point I am making is that we are not talking about oranges and oranges, we are talking about oranges and apples. One is the ambient air standard measured over a 24-hour period, which is the length of time people breathe in a day—



**Mr. Reid:** If they are lucky.

**Mr. Burr:** It's a necessity.

**Hon. Mr. Auld:** If they propose to see the next day. The 150 micrograms is a tolerable exposure for a healthy person at work, and those levels were considerably less than 150. I haven't got—

**Mr. Burr:** Yes, 22.3 micrograms in Toronto was the highest lead level.

**Hon. Mr. Auld:** I have a long report; I saw the same clipping, and, as a matter of fact, I got this together because I thought somebody would ask me in the House. Also, I was curious, of course. The Globe and Mail on May 9—

**Mr. Reid:** In that order?

**Hon. Mr. Auld:** Pardon?

**Mr. Reid:** In that order?

**Hon. Mr. Auld:** No, in the other order, but it was in that order when I read the paper.

**Mr. Burr:** Well, what I am concerned about is, did the health study show these workers had no symptoms of lead poisoning?

**Hon. Mr. Auld:** No, no, the levels in their blood—

**Mr. Burr:** They were given a clear bill of health?

**Hon. Mr. Auld:** —were not anywhere near a hazardous level.

**Mr. Burr:** Fine.

**Madam Chairman:** Mr. Burr, Mr. Minister and gentlemen, it's now 5 o'clock, and the private members' hour is starting, so I suggest that we recess and reconvene at 8 o'clock.

It being 5 o'clock, p.m., the committee took recess.

## CONTENTS

Monday, May 28, 1973

Air and land pollution control programme, continued .....	S-713
Recess .....	S-734



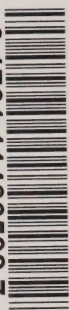




BINDING SECT. AUG 18 1980

GOVT PUBNS





3 1761 11466598 7